39 Eliz c 3 - (1598) Poor's Rate made compulsory (partially so before).

43 Eliz. c 2 (1601) nearly a re-enactment of the

EXEMPTION FROM POOR RATES.—On the 31st ult. an act was passed (11th and 12th Victoria, chap. 85) by which a former act is continued for a year, exempting inhabitants from liability to be rated as such in respect of stock-in-trade or other property to the relief of the poor.

Times 27 Sept. 48

Howne Danson

from Mr. Hawes - Mar. 1844

Digitized by the Internet Archive
in 2007 with funding from
Microsoft Corporation

http://www.archive.org/details/reportonlocaltax00greauoft

REPORT

OF THE

POOR LAW COMMISSIONERS

ON

LOCAL TAXATION.

By Authority.

LONDON:
PRINTED BY W. CLOWES AND SONS, STAMFORD-STREET,
FOR HER MAJESTY'S STATIONERY OFFICE.

1844.

HJ
9425
A5 A42

125144

CONTENTS OF REPORT.

Page

INTRODUCTION. 1

EXTENT OF THE SUBJECT :—

Connection of Poor's Rate with all the other Local Taxes. 1
Definition of the Local Taxes. 6
Arrangement of the subject of the Report 7

ON THE EXISTING LAW AND PRACTICE.

ENUMERATION OF THE LOCAL TAXES 7

BODY OF LAW EXTANT ON THE SUBJECT 8

THE INTRODUCTION AND PROGRESS OF THE TAXES :—

The Constable's Rate, Town Ley—or Town Cess 9
The Hundred Rate 10
The County Rate 11
The Gaol Fees' Rate 15
The Rate for the Burial of the Dead 15
The Rate for County Lunatic Asylums 16
The Rate for Shire Halls 16
The Police Rate 16
The Borough Rate 16
The Borough Watch Rate 17
The Church Rate 17
The New Church Rate and Burial Ground Rate 18
The Sewers Rate 18
The General Sewers Tax 19
The Poor's Rate 19
The Highway Rate 22
The Lighting and Watching Rate 22
The Militia Rate 22
The Workhouse Building Rate. 22
The Survey and Valuation Rate 22

THE PRESENT PURPOSES AND APPLICATIONS OF THESE RATES :—

Multiplication of the purposes and anomalies. 22
Reduction of the number of rates—by consolidation 23
—by illegal practices 24
—by the interposition of legal difficulties 24
—by obsolescence of the occasions 25
The number of Rates usually levied 26

AMOUNT OF MONEY LEVIED BY LOCAL TAXES—

—difficult to be ascertained 26
Amount of Poor's, County, Highway, and Church Rates. . . . 27
Comparison of the amount of Local, and of General Taxation . . 29

THE PROPERTY AFFECTED BY THESE TAXES :—

The Poor's Rate and the like taxes in reality—
—Property Taxes 30

Page

1st. *The kinds of Property Liable.*

—the terms of the Statutes in which the liability is created . . 30
—liable expressly:—
Lands 31
Houses 32
Tithes impropriate and propriations 32
Coal Mines 32
Saleable Underwoods 32
—liable by implication:—
The principle of construction adopted by the Courts of Law . . 33
Property constituting the ability of parsons and vicars—tithes—pensions—oblations 34
Property constituting the ability of 'inhabitants' 35
viz., Stock in Trade 35
difficulties encountered in its assessment 35
history of its liability 36
Some peculiarities in the liability of property to other rates, on the basis of the Poor's Rates 39
Property liable to the Miscellaneous taxes 40
—to the Church Rate 40
Lands 40
Houses 41
Stock 41
Tolls 41
—to the Sewers Rate 41
Lands 41
Tenements 42
Rents 42
Common of pasture 42
Profit of fishing 42
Other commodities 42
Recapitulation.—Disregard of the law, in the existing practices . 42

2nd. *The principles on which property is valued.*

Principle of Assessment.
Of the standard of rateable value 43
Of the valuation of lands, &c. 44
—acreage 45
—rent 45
—outgoings in taxes, &c. 45
—outgoings for repairs 46
Definition of rateable value by the Parochial Assessments Act, 6 & 7 Wm. IV., c. 96. § 1 46
defects of this definition 47
Of the valuation of personalty 48
anomalous and arbitrary 48
temporary exemption of personalty 49
Practice of under-valuing property 50
Operation of the Parochial Assessments Act 51
—increased inequalities 51
Defects in Valuations in Rates other than Poor's Rates . . . 53
—County Rate Valuations 53
Variety of practices 54
—Sewers Rate Valuations 56
The law disregarded in practice 57

THE PERSONS LIABLE TO THESE TAXES:—

1st. *To the taxes of the Poor's and County Rate Series.*

Disagreement in the terms of the Statutes 57
'Inhabitants' 57
'Parson or vicar' 58

Page

'Occupiers' 58
difficulties in rating occupiers—smallness of tenements— 59
frequent change of occupation 59
attempts to meet these difficulties 60
7 Geo. II., c. 3 60
59 Geo. III., c. 12, s. 19—defects of this enactment . . . 60
its operation beneficial 62
Occupiers of Land charged with tithe commutation rent-charge . 63
Occupiers jointly liable with owners, to Rates for Lunatic Asylums 63

2nd. *To Taxes of the Miscellaneous Series.*

Church Rate:—
Parishioners 63
Occupiers. 64
Owner of the glebe 64
Persons who may be exempted. 64
Sewers Rate:—
Persons doing damage 64
Persons holding lands, &c. 65
Persons who might suffer damage 65
The King—his tenants and farmers 65
Outgoing and incoming tenants 65
General Sewers Tax:—
Occupiers of property within the jurisdiction of the Court . 65
The number of persons liable to these taxes 66

LIMITATIONS IN THE PROPORTIONS, AMOUNT, AND DURATION OF RATES.

Scales 67
Limit to amount 67
Periods for making Rates 68

DISTRICTS IN WHICH RATES ARE TO BE MADE.

1. Independent districts. 70
2. Aggregate districts 72
Various origins, purposes, and extent of these districts 74
Disputed boundaries. 77
—settlement of disputes as to parochial boundaries 77
—as to county boundaries 77

THE PROCESS OF MAKING AND AMENDING RATES.

The making of Rates—books 78
—in independent districts 78
—in aggregate districts 78
Allowance and confirmation of Rates 79
Publication 80
Amendment—
—Amicable 80
—Litigious 80
Certiorari 81
Injunction 82
Appeals 82
to Quarter Sessions 82
to Special Sessions 84
peculiarities as to Church Rates 86
as to Sewers Tax. 88
Actions 88
Costs. 89

THE COLLECTION AND LEVY OF RATES.

Rates due—on publication 90
—on demand 90

Page

Levy—of independent rates:
Collection 90
Officers for collection 90
Conflict of authorities 91
Enforcement
By distress 93
procedure 94
levy, notwithstanding a pending appeal 95
levy after amendment 95
levy after rate quashed 95
By commitment to gaol 95
Against persons substituted 95
By decree and sale of lands 96
By fines, amerciaments, pains, &c. 96
By mandamus 96
By suit for subtraction of Church Rate 97
—of Aggregate Rates 97
Remedies for unlawful levy of rates—
Replevin 98
Action of Trover 98
Action of Trespass 98
Action on the Case 98
Protections to officers, &c., against actions 98
Appeal—17 Geo. II. c. 38; 1 and 2 Geo. IV. c. 85, § 3—*qu.* its operation? 98

Lodgement and Custody of Rates:—
Importance of the subject 99
Officers invested with the custody 99

Accounts.
Legal responsibilities of officers for the funds under their control. . . 101
Requisites for efficient accountability 102
Certain rates not subjects of account 102
Certain rates subjects of multitudinous accounts 102
Most rates subjects of some account 102
—the Poor's Rate account and audit 103
conflict of authority of justices and auditors 105
—the Constables' Rate—no account 107
—the Highway Rate 108
—the Lighting and Watching Rate 111
—the Militia Rate—no account 113
—the Church Rate 113
—the Sewers Rate 114
—the General Sewers Tax 115
—the County Rate 115
—the Rate for Lunatic Asylums 117
—the Rate for Shire Halls 118
—the Police Rate 118
—the Borough Rate 120
—the Watch Rate in Boroughs 121

Officers charged with the execution of the Law.
54 denominations of officers 121
not less than 180,000, simultaneously in office 121
List of officers 122

REMEDIES:—
Defects in law and abuses in practice resumed 144
Suggestions of some amendments 147
to assimilate the incidence of the local rates on persons and property 147

Page
to consolidate the local rates, so far as assessment and collection are concerned, into one general rate 148
to modify the law as to the property liable, viz : 152
to exempt stock in trade from all the rates. 152
to make mines and woods liable 153
to settle the claims of the tithe-owners :
—their claim to exemption proportionate to occupiers' profits, discussed 168
—their claim to compensation for the exemption of stock in trade, discussed 170
—their claim to an exemption for their rent-charge, from rates made for improvement of land and for personal protection, discussed 172
—their claim to an exemption in respect to the value of their services, discussed. 176
—their claim to protection against the under valuing of other property, discussed 179
to provide for a constant and strict re-valuation of property . . . 183
—and for a cheap and efficient appeal against unfair valuation . 191
amicable amendment of rates 191
arbitration of experts 191
award to be confined to questions of value 193
to be final 193
jurisdiction of Quarter Sessions reserved in questions of right . 193
—suggestions resumed. 193
to repeal the annual audit of overseers' accounts, by justices of the peace 196
to extend the audit of poor's rate, by the paid auditors, to other local taxes 196
Recapitulation of the amendments proposed 201
These amendments, not inseparably connected. 205

APPENDIX 207

[The Appendix to the *folio* copy of the Report contains summaries of the statute law relating to each of the Local Taxes. Their extent would not allow of their being reprinted in an *octavo* volume, only a list of the statutes digested, and the Summary of the POOR'S RATE are reprinted in this volume.]

REPORT.

TO THE RIGHT HON. SIR JAMES GRAHAM, BART., M.P.,
Her Majesty's Principal Secretary of State for the Home Department.

Poor Law Commission Office,
SIR, *Somerset House, June* 1, 1843.

IN January, 1841, the Marquess of Normanby, then Her Majesty's Principal Secretary of State for the Home Department, communicated to us his desire that we should prepare a statement of the present condition of the law relating to the Poor's Rate and other local taxes.

From the first appointment of the Poor Law Commission, the attention of the Commissioners has, from various causes, been unceasingly called to the subject of the Poor's Rate. The Poor Law Amendment Act imposed on the Commissioners the duty of regulating the accounts to be rendered by the persons concerned in the assessment, collection, and expenditure of that tax, and the appointment of paid Auditors under that Act has produced in all parts of the country an increased attention to its legal purposes and its applications. The questions that arise upon the powers of Overseers and Guardians in disposing of its proceeds, and upon the duties of the Auditor in allowing, or disallowing, or reducing charges, are very numerous and various in their character, and constantly afford examples of the operation of the law, and suggest instances of defects in its provisions. Moreover, the Parochial Assessments Act, passed in the year 1836, invested the Commissioners with new duties in respect of the valuation of property for the purposes of the tax, and gave rise to much discussion, the whole of which has proved a daily subject of the correspondence of the Commission.

The valuation for the purposes of the Poor's Rate being used almost universally as the basis of all the other local taxes, it follows that the consideration of questions relating primarily to the Poor's Rate has frequently involved the consideration of the law, and of the prevailing practices in relation to those other rates.

Extent of the Subject of this Report.

The Poor's Rate is so connected legally, or in practice, with the whole of the other local rates, that it is impossible to introduce any considerable amendment or modification in respect of the

RATING. *Extent of Subject.*

Poor's Rate singly, without producing unintentional anomalies and irregularities throughout almost the whole system of our local taxation.

Thus, for instance, the protection of the Poor's Rate by a more effectual Audit, without applying contemporaneously a similar protection to the other Rates has not always prevented a perpetuation of many of those objectionable practices which it was more immediately intended to put an end to, but has, in some cases, only transferred the abuse to another rate. Even as regards the great object of controlling and restraining of out-door relief to the able-bodied, it has, in some measure, failed, for it has not prevented a portion of that species of relief from being cast upon the Highway Rate, in a manner even less subject to control than the same kind of relief was under the old poor laws. Through the like omission, the Church Rate has been frequently misapplied for the payment of various illegal and irregular charges.

To cite another instance, it was announced by the preamble of the Parochial Assessments' Act (6 & 7 Wm. IV. c. 96), as its chief purpose, "to establish *one uniform mode of rating* for the "relief of the poor throughout England and Wales." It was especially intended to prevent parishes from making low valuations of their property with the view to escape from their fair shares of contribution towards the County Rates, Hundred Rates, Police Rates, Borough Rates, and the other rates of like nature, which are levied upon an aggregate of individual parishes in the proportion of their several assessments. Nevertheless, it is certain that in many counties, and in a vast number of cases, the inequality which formerly prevailed has been aggravated by the operation of the Act. For although it is true that before the Act was passed, parishes were generally assessed much below their value, yet in the same county, or in the same district contributing to any general rate, it was usually found that the parishes were under-valued nearly all in the same proportion, and therefore with some approach to equality as amongst themselves. The Act, indeed, contemplated a much more perfect uniformity, but as it only authorizes the making of a new valuation where the parish or union officers themselves apply for it, it has naturally followed that a majority of parishes have not been brought under the operation of its provisions. In the cases where new valuations have been made it is to be presumed that the parishes are rated not only to the Poor's Rate, but to the County Rate, and other similar general rates, nearly on their full value, while the other parishes in the same districts in which new valuations have not been made, contribute in the same proportion as before. The obvious consequence is, that the "uniform mode of rating for the "relief of the poor," so far as the valuation of property is concerned, is less nearly attained at present than before the Act was passed,

and that the inequality of the burden of the County Rates, and of all other general rates imposed on the basis of the Poor's Rate is greatly aggravated by the partial operation of the very measure intended for its correction.

RATING.
Extent of Subject.

The Act to exempt Stock in Trade from Poor's Rate presents another and a striking instance of the impossibility of legislating for the Poor's Rate alone, without incurring the danger of introducing extensive anomalies and unforeseen modifications in other parts of the system of local taxation, to which the attention of Parliament is not at the time specifically directed. By repealing the liability of personal property to the Poor's Rate, the liability was also of necessity repealed in respect of all rates which may be paid out of the Poor's Rate. Thus the ordinary County Rate, the County Rate for Lunatic Asylums, the Rate for the Burial of the Dead, the Hundred Rate and the Borough Rate, and the Borough Watch Rate (where they are paid out of the Poor's Rate, as they may lawfully be in certain cases), appear to be affected by the repeal of the liability of Stock in Trade, exactly in the same manner as the Poor's Rate itself. And when the same rates are to be raised in extra-parochial places, where they are directed to be laid upon the property which would be rated to the Poor's Rate, the courts of law would probably hold that the subsequent exemption of personal property from Poor's Rate operates as an exemption also from these other rates. But, on the other hand, where these rates are to be paid out of the Constables' Rate, as in the northern counties, the liability of stock in trade to contribute to them is not repealed; for the Constables' Rate, as well as the Highway Rate, the Lighting Rate, the Militia Rate, the Church Rate, and the Burial Ground Rate, still include Stock in Trade, as before the passing of the Act. In the case of some of the other rates, it is difficult to judge whether the exemption from the Poor's Rate extends likewise to them or not. The Rates for Gaol Fees, the Police Rates, Borough Rates, and the Borough Watch Rate, when this is not paid out of the Poor's Rate, are in this doubtful predicament.

We do not consider it necessary to multiply instances of the inconvenience of legislating on the subject of the Poor's Rate, without taking into consideration at the same time, the whole of the law relating to that Rate, and also the law relating to all the other local rates, whether framed upon the same system as the Poor's Rate or upon any other system;* but we believe that

* The following, however, are some instances referred to in a memorandum by the compiler of Appendix A.

"In considering these instances, it is right that it should be borne in mind that there is no other subject upon which the existing legislation is in fact so certain, or upon which Parliament and the public generally are so accurately informed, and so intelligibly and directly interested, as the present subject of Taxation. In respect of most other rights conferred, and obligations imposed, by the legislature, a certain latitude of enjoyment and of obedience is inevitable, and much of the effect of the

Instances of uninformed legislation.

RATING. *Extent of Subject.*

scarcely one instance could be found of recent legislation upon the subject of the Poor's Rate which has not indirectly produced as much inconvenience and confusion in regard to other rates, as it has cured or prevented in regard to the Poor's Rate itself.

---

law may safely be made to depend on the general sense which people have of their reciprocity of interest,—every person subject to an obligation at one moment, being equally entitled in his turn to the enjoyment of the right conferred, and to benefit by the obligations imposed on others, for securing its enjoyment. In matters of taxation, the recognition of the burden of the obligation is always easy, but the perception of the reciprocal benefits to be enjoyed is less easy and less general. Precision of expression is universally felt to be necessary, when every man is to be compelled to make definite sacrifices, and submits to the law with reluctance. This precision of expression is also most easily attained, because the liabilities are dependent on simple circumstances, are not subject to be modified or rendered intricate by complicate private arrangements, and are measured by arithmetical (that is, by easily definable) proportions; the whole of the law is put into operation through the ministration of special functionaries, whose information, when new legislation is contemplated, is always officiously offered or readily to be procured. No subject could therefore be selected, of which the matter is in so defined a form as the present, or so clearly expressed, and so little likely to afford examples of ignorance in Parliament of the existing state of the law at the time when they legislated. Nevertheless, even here, the instances are sufficiently numerous and striking to illustrate the prevailing fashion of legislation.

..... "Scarcely anything can be more material than the declaration of the *Persons* or *Properties* to be rendered liable to a tax. Yet there is hardly an instance in any modern Act, where the intention has been to impose the tax on the basis of the Poor's Rate, in which the purpose has been legally or unambiguously effected, not because there is any the smallest difficulty in effecting it, but merely because the draftsman dispensed himself from looking at the statute of the 43 *Eliz.*, and Parliament and the public had no ready means of checking the draftsman while the bill was in progress. Thus the Highway Rates are made taxes on the Property, without apparently following the Person (App. A, HIGHWAY RATE, par. **30**, and note preceding **74**.) The same defect applies to the Lighting and Watching Act, 3 & 4 *Wm. IV.*, *c.* 90, *s.* 9 (App. A, LIGHTING RATE, par. **30, 70**), with the addition of a positive confusion as to the Persons liable, caused by the use in section 33 of the terms 'owners and occupiers of land,' terms not reconcileable with those of the statute of Elizabeth, (App. A, p. 247, **111**). In other cases the error is reversed, and the Property is left to be inferred, and the Persons only fixed, and this often with gross inaccuracy; thus in the Militia Rate Act (43 *Geo. III.*, *c.* 90, *s.* 42), the persons described as liable are the 'inhabitants of the parish, &c., according to the Rate made for the Relief of the Poor,' the strict effect of which is to omit both the chief Persons and chief Property, subjects of the Poor Rate, namely, the occupiers of the real property and the tithe-owners, and to charge only the persons liable to Poor's Rate in respect of stock in trade. The defects of the Act for the General Sewers Tax, in this respect, have been partly described above. The County Rate Acts, unlike the Militia Rate Act, refer to the 'occupiers of estates and property,' and omit inhabitants, as well as parsons and vicars (55 *Geo. III.*. *c.* 51, *s.* 12,); while as regards the Property to be rated, the confusion is extraordinary, being described for parishes, where Poor Rates are made, by terms inapplicable to the property liable to Poor's Rate (App. A, p. 419, par. **30**), while for extra-parochial places, where no Poor's Rate is made, the liability of property is strictly identified with the liability to Poor's Rate (App. A, p. 420, par. **30**). The same confusion is extended, by adoption, to the County Rate for Shire Halls, to the Rate for Burying Dead Bodies, and apparently to the Rate for Lunatic Asylums. Not to make the enumeration fatiguing, reference may at once be made to the proper Titles in App. A, to show that in this the most important provision in relation to every tax, the confusion is almost universal.

"After the declaration of the liabilities of persons and property, one of the subjects about which Parliament would be most vigilant, would be the provision for *Remedies* against an illegal tax, and against irregularities in its imposition. To take the most recent instances of legislation, the 3 & 4 *Vic.*, *c.* 88, *s.* 8, assumes that a right of Appeal is given against the Police Rate in places within the county,

This difficulty, then, of separating the consideration of the Poor's Rate from that of any other of the local taxes is our reason for combining the whole system of local taxation as much as possible into one view in the following observations.

---

and affects to extend the same right of appeal to detached places; but no such appeal as the one assumed to exist, does exist, and the appeal supposed to be conferred by reference is, therefore, a mere illusion (App. A. p. 519, par. **153**). In the majority of cases no remedy at all is given against the tax, or it is given by some equally illusory reference, or is so imperfectly constructed as to be worse than nothing, in as far as it deludes people into litigation and its expenses, without affording them protection. It would be again too tedious to repeat the instances, which are generally made apparent in the notes to App. A.

"Of still greater importance, however, is the subject of the *Accountability* of those who have the collection, custody, and distribution of a tax. Yet is this subject sometimes wholly forgotten, as in the Workhouse Building Rate (App. A, p. 125), the Survey Rate (*ib.* p. 130), the Rate for Gaol Fees (*ib.* p. 137), the Constables' Rate (*ib.* p. 159), the Militia Rate (*ib.* p. 298), the Burial Ground Rate (*ib.* p. 349), the Hundred Rate (*ib.* p. 507). Sometimes the existence of the liability to account is left doubtful, as in the General Sewers Tax Act (App. A, p. 398, par. **266 a**). Sometimes it extends only to a part of the funds, or a part of the persons in respect of which it should be provided, as in the case with the Lighting and Watching Rate Acts, omitting overseers (App. A, p. 270); the Sewers Rate Acts, omitting the Commissioners (*ib.* p. 272); the County Rate and Borough Rate Acts, omitting justices and borough councils all through the series of rates imposable on counties, hundreds, and boroughs (App. A, pp. 460, 482, 492, 548, 576). Numerous other defects in this respect will be seen by reference to Appendix A, par. **266**, *passim*.

"These instances, though a very small part of what the single subject of local taxation affords, and selected only from the most important heads of the subject, will be more than sufficient to show how entirely fortuitous our legislation is upon a subject in itself the most intelligible, and capable of most accurate definition.

.....It thus occurs that an accumulation of original and substitute provisions co-exist for the same purpose. The co-existence of the Sewers Rate, and of the General Sewers Tax is apparently an instance of this; the co-existence, in the Tithe Commutation Acts, of two distinct sets of provisions for determining the boundaries of properties and parishes (1 *Vic.*, *c.* 69, *s.* 2; 2 *& 3 Vic.*, *c.* 62, *s.* 34, 35, App. A, Poor's Rate, par. **121, 122**), the first of which ought to have been repealed, is another; the co-existence of three discordant sets of provisions for the inspection of Poor's Rates (17 *Geo. II.*, *c.* 3, *s.* 2; 17 *Geo II.*, *c.* 38, *s.* 13; 6 *& 7 Wm. IV.*, *c.* 96, *s.* 5, App. A, Poor's Rate, par. **139, 140, 141**), is another; the co-existence of an original appeal to Quarter Sessions, of an original appeal to Special Sessions, and of an appeal from thence to Quarter Sessions, (App. A, Poor's Rate, par. **154, 171, 178**), is another; the co-existence of three general accounts, and of a multitude of special and occasional accounts, by overseers (see note to Accounts, App. A, p. 85; and Poor's Rate, par. **278, 279, 280**), is another; the co-existence of two appeals to the same Sessions against the accounts of overseers (App. A, Poor's Rate, par. **286**), is another; not to mention multitudes of like instances, applying to most of the other rates, and to be found by inspection of App. A. Every such instance is at least an useless incumbrance to the Statute Book, and to every compilation; and causes a perpetual embarrassment to the public, to functionaries, to courts of justice, and to Parliament itself.

.....One example of an insufficient repeal is presented by the abrogation of the liability to pay Poor's Rate in respect of personal property (App. A, Poor's Rate, par. **74**). This liability is only by implication repealed in the case of some other rates, viz., the County Rate *semble* in extra-parochial places, par. **31, 70, 74**; *semble*, but *qu.* in parishes, par. **30, 70, 74**; the County Rate for Lunatic Asylums *semble* and *qu.* as before, par. **32, 71**; the County Rate for Shire-halls *semble* and *qu.* as before, par. **32, 62**; the Rate for Burial of Dead *semble* and *qu.* as before, par. **32, 62**; the Hundred Rate where there is a County Rate, subject to the same question as County Rate, par. **32, 33, 62**; where there is no County Rate or similar fund, then as Poor's Rate, par. **30, 44**; the Borough Rate, when paid out of Poor's Rate, par. **30, 66 a, 68, 70**; but *qu.* as above when made as County Rate, par. **32, 62**

RATING.

Extent of Subject.

Definition of Local Taxes.

By Local Taxes we mean those compulsory contributions for public or common purposes which are imposed and levied within certain districts of the country, and are expended within the same districts in which they are levied, and for the especial benefit of those districts.

None of these districts for taxation and expenditure are more extensive than counties.

The Report will generally apply only to those local taxes which are levied in England and Wales.

Moreover, of the local taxes leviable in England and Wales, the Report will only apply to such as have some special administrative machinery provided for their imposition and expenditure;—

—The Tithe rent-charge, therefore (although it will be treated of as a rateable property), will not generally be referred to amongst these local taxes; inasmuch as it is not assessed or collected by a public machinery, and the district is not legally concerned in its distribution or expenditure;—

—For the like reasons, although the Easter offerings is a common tax, it and the other obventions of the same or similar authority will not be further adverted to as local taxes. Certain other local taxes also, which are not imposed by a common assessment, but are only paid by each individual on the occasion on which he claims some benefit, will not be treated of in this Report; such as tolls on turnpike-roads and navigable rivers, fees payable in the local administration of justice, for licences, or for the performance of other public administrative acts;—

—Again, where the purposes of any of the general local taxes are secured by a tax levied under a local custom, and not under the general common law, or general statutes, these local taxes will not be adverted to in this Report; such are the various special taxes levied in liberties and in districts of counties for purposes generally attained by the County Rate, but in these places attained by some other means under the exemption in the 12 Geo. II. c. 29, s. 5, and 55 Geo. III, c. 51, s. 1; the taxes raised in various of the boroughs not included in Schedules A and B of the Municipal Corporations Act; the various improvement rates for enclosure, drainage, for defences against rivers or the sea, made under ancient customs or local Acts; the Parish Clerks' Rate, &c.

Arrangement of the subject.

In our observations on the remaining taxes which will constitute the subject of this Report, we will follow the usual course of stating,—

66, 71; the BOROUGH WATCH RATE, when paid out of Poor's Rate, par. **66**. The liability is left in full force in others, viz., in the CONSTABLES' RATE, par. **30, 70, 74**; the HIGHWAY RATE, par. **30, 59, 72**; the LIGHTING RATE and WATCHING RATE, par. **30, 59, 70**; the MILITIA RATE, but *qu.* par. **30, 74**; the CHURCH RATE, par. **59**; the BURIAL GROUND RATE, (*qu.*) In other cases it is doubtful whether the liability is repealed or still exists, viz., as to the GAOL FEES RATE, par. **30, 71**; the POLICE RATE, par. **32, 62**; the BOROUGH RATE, par. **30, 32**; the BOROUGH WATCH RATE, when not paid out of Poor's Rate, par. **66, 71**."

RATING.
Extent of Subject.

First, The present state of the law on the subject, indicating as we proceed such of the existing defects as appear to us most to deserve attention.

Secondly, Some suggestions for rendering the law more uniform and consistent, without making material alterations in it—at the same time indicating some changes which might be advantageously adopted when this body of law is subjected to revision.

The Local Taxes referred to in this Report.

The local taxes, of which it has thus been proposed to treat, are as follows:—

I. Rates of Independent Districts.

1. *Poor's Rate Series.*—Taxes on the basis of the Poor's Rate.
   1. Poor's Rate.
   2. Workhouse Building Rate.
   3. Survey and Valuation Rate.
   4. Gaol Fees Rate.
   5. Constables' Rate,
   6. Highway Rate.
   7. Highway Rate,—additional rate for purchase of land.
   8. Highway Rate,—additional rate for law expenses.
   9. Lighting and Watching Rate.
   10. Militia Rate.

2. *Miscellaneous Taxes.*—Each on an independent basis.
   11. Church Rate.
   12. Church Rate for new churches, repairs,
   13. Burial Ground Rate.
   14. Sewers' Rate.
   15. General Sewers' Tax.
   16. Drainage and Enclosure Rate.

II. Rates of aggregated Districts.

3. *County Rate Series.*—Taxes imposed originally on aggregated districts by some general authority, but ultimately assessed on the basis of the Poor's Rate.
   17. County Rate.
   18. County Rate for Lunatic Asylums.
   19. County Rate for building Shire Halls.
   20. Burial of Dead Rate.
   21. Hundred Rate.
   22. Police Rate.
   23. Borough Rate.
   24. Watch Rate in Boroughs.

24

RATING.

Body of Extant Law.

The Body of Law extant on the subject of these Taxes.

The extent of the legislation is great and the matter is widely dispersed.

The Statutes expressly relating to the subject are described in the table of Statutes, in Appendix A, page 32: they are 173 in number, commencing with the reign of Edward I., but they have chiefly been passed in the period between the 22nd year of the reign of Henry VIII., 1531, and the present time, the frequency and the volume of the legislation increasing rapidly in the later portions of the period. The Statutes passed in the last 12 years, introducing new local taxes or modifying the old, exceed in bulk all the Statutes upon the same subject passed in the whole of the three preceding centuries.

The judicial decisions are much more numerous, and occupy a much greater space than the statutes; but, of course, they do not so often introduce new substantive law as they expound and apply the provisions of the statutes. With regard to the Church Rate, however, which is of common law, and not of statutory origin, the doctrines applicable to it are almost exclusively to be sought for in bulls, decretals, papal and episcopal letters, and other documents of doubtful force as English law, or in the decisions of the ecclesiastical courts, which are neither very comprehensive nor very well reported, or in the treatises of various private writers, many of which are admitted as authority, less apparently on account of the merits or of the qualifications of the writers, than on account of the absence of all other authority.

As there is no part of this body of law, especially of that contained in the statutes, which can be safely overlooked in the process of legislation, and as it is difficult to determine the relative degree of importance of its several parts, we have caused a complete, minute, and methodical compilation of the whole, up to the end of the last Session of Parliament, to be made by our Assistant Secretary, Mr. Coode, in such a way that the law upon the subject of each tax can be readily discovered, and the provisions in regard to each tax compared with the analogous provisions of every other tax. This compilation having been made according to our instructions, is printed in the annexed Appendices A and B, to the former of which is prefixed an explanation of the method upon which it is framed.

The Introduction and Progress of these Taxes.

The most ancient of the local taxes are, the Constables' Rate, the Hundred Rate, the County Rate, and the Church Rate, these being all of common law origin.

The CONSTABLES' RATE or CONSTABLES' TAX (Appendix A, p. 139), otherwise and more anciently called the TITHING or

RATING.

The Taxes now Leviable.

Constables' Rate.

Town Ley or Levy, and when imposed for contribution towards the charges on the Hundred or the County, called the Tithing or Town Sess or Size, or Cess, is, with the Hundred and County Rates, with which it originally and for a long time formed one system of taxation, the most ancient of our Taxes. It was also the most extensive in its territorial operation, the division of the Country into Townships, Tithings, or Borhs, and the analogous sub-divisions of half-tithings and hamlets, having been universal, or only liable to the rare exception of a royal residence and precincts, while, with respect to persons, the township or tithing appears to have had an extension absolutely universal, inasmuch as no freeman was suffered to abide in England above 40 days unless enrolled in some Tithing. The tax was the immediate and necessary consequence of the civil division of the country into Tithings or Townships, Hundreds, and Counties, and of the imposition upon the people of those divisions of various pecuniary burdens, such as the compensations, fines, mulcts and amerciaments for offences committed, or escapes allowed within those limits, the maintenance of stocks for keeping offenders in holt, the expenses of the Lord's Court and the maintenance of pathways, highroads, watercourses, and the like public conveniences, and sometimes bridges, when these were not provided for by a separate rate or brukbote; and contributions to defences as well against human enemies as against the encroachment of waters where this was necessary; the maintenance of highways and bridges being in the earliest times more peculiarly township charges, and one of the three heads of the *trinoda necessitas* to which all men's estates were subject. The King's aids, taxes, and subsidies too, were often imposed on the inhabitants of the towns by the same machinery, but this was for convenience, and not, of course, as being ordinary Town Levies. Where a borough was of sufficient importance to send a burgess to Parliament, the wages of the burgess were also raised as a Town Rate. The earliest statutes frequently refer to the tax as already existing: often imposing new burdens by means of it, or defining and restricting the old; but there is apparently no definition extant of the manner of its imposition. It appears to have been from the first collected and disposed of by the tithingman, headborough, or borsholder, but the petty constables doubtless succeeded to this duty, together with the other police duties of the tithingmen immediately upon their institution in the reign of Edward III. It must have been after this time that the tax acquired its name of The Constables' Tax. The persons on whom this tax was imposed, whether it was imposed in respect of property, and in what proportion, were matters which until the 13 & 14 Car. II., c, 12, entirely depended on custom; the general Town Rate never having been regulated in these respects by statute as the levies in Hundreds and in Counties

RATING

The Taxes now Leviable.

occasionally were. But it appears from frequent provisions in the early statutes, that when charges were imposed on the whole of a township, it was left to the inhabitants to adjust their respective shares of the burden amongst themselves. This was most probably the practice with all the Township Levies, and it is likely that it was performed somewhat in the mode in which the County Cess in Ireland, was apportioned amongst themselves by the inhabitants of townlands, before the recent valuation was effected in that country.

Gradually townships became very much identified with parishes. In the reign of Henry VIII., the parish begins to appear as the district for taxation, and after the institution of the Poor's Rate as a parochial tax, the Constables' Rate rapidly lost its ancient character, not only as a Township tax, but also in regard of its mode of imposition on individuals; and the 13 and 14 Car. II., probably effected no great practical change, in identifying its mode of imposition on persons and in respect of property, with the Poor's Rate. The rate authorized by that statute, and by the 12 Geo. III., c. 29, and the 55 Geo. III. c. 57, is limited to a very few special purposes. It is, however, only for these purposes that the rate is now levied: the repair of highways has, for the most part, become a parochial charge, and is provided for by a special rate; the repairs of bridges in most cases fell on the county so long since as the 22 Hen. VIII. c. 5, or soon after; and it may be said that practically the common law Constables' Rate has become obsolete; and that in the present day its objects are either attained by means of other rates, or abandoned altogether.

Hundred Rate.

The HUNDRED RATE (Appendix A, p. 499) has its origin like the Town levies in the civil division of the County into Hundreds or Wapentakes. This division being even more ancient than that of Towns or Tithings, the burdens on the Hundred may be assumed to be of more ancient origin than those on Townships; but probably nothing could now be learnt of the mode in which the burdens imposed on the Hundred were distributed in England in the earlier times. Since the institution of Townships, it is certain that the ordinary Hundred Rate, and most of the other occasional burdens imposed on the Hundred, have been subdivided by the Bailiff or High Constable of the Hundred amongst the Townships comprised within it, and there collected as Town Sess; both were, therefore, in their last incidence, and essentially, the same kind of burden. The purposes of the two Rates were also analogous; the Hundred Rate was levied for the support of the Lords' Court, to defray the incidental expenses of the Bailiff or High Constable as an officer of Police, for the payment of judicial fines and amerciaments imposed on the district or on the county, for the maintenance of Bridges of the Hundred, the contribution towards the Bridges, Roads, and Prisons of the County or of any combination of

RATING.

Hundreds, and during a period of some centuries, for contribution towards the wages of the Knights of the Shire.

The Taxes now Leviable.

As now levied, the Hundred Rate is both as to its purposes, and as to its incidence on property and persons, entirely regulated by recent statutes. The Common Law Hundred Rate may be considered as obsolete.

County Rate.

Of like origin and antiquity is the COUNTY RATE (Appendix A, p. 411), which, with the contributory Rates, the Township Rate contributing to the Hundred, and the Hundred Rate contributing to the County, constituted one complete system of taxation. The County Rate was sometimes again contributory towards the common national burdens; the King's aids, taxes, and subsidies being in early times imposed by means of the Sheriff of the County, who assigned their shares to the respective Hundreds within which the necessary portions were collected by the officers of the several Townships. This system was very early found to allow of great injustice being practised by the sheriffs towards the respective Hundreds, and smaller subdivisions; and in the year 1275, the third year of Edward I., the statute of Westminster required that the common judicial fines laid on the County, should be assessed by a Jury before the Justices in Eyre, previous to their departure, and that the sums should be assessed at once upon the particular persons liable, and that the parcels, and not the whole sums, should be put into the estreats. The like subject of complaint is repeated in many subsequent statutes, but the convenience of subdividing the County burdens amongst the Hundreds and then again amongst the Towns, has caused the system to be generally continued to the present time.*

---

* The other chief exception, where a County Rate was at once imposed on the individual persons liable to pay it, and where the Hundred and Township were overleaped, was the following:—

"22*nd Hen.* 8, *c.* 5.

A.D. 1530—31. III.

How such Justices may rate inhabitants for repairs, &c. of bridges.

"And be it farther enacted, That in ev'ry suche case, where it cannot be knowen and p'ved what p'sons, landes, tenements, and bodyes polytyke owen to make or repayer such brydges, that for spedy reformacion and amendynge of such brydges, the Justices of Peace within the shires or riddynges wherein suche decayed brydgis ben out of cityes and townes corporate, and if it be within cityes or townes corporate, then the Justices of Peace within ev'y suche cytie or towne corporat or iiij of the said Justices at the leaste, whereof one to be of the quo'm, shall have powar and auctoritie within the lymyttes of their sev'all commyssions and auctorities to call before them the constables of ev'y towne and parysshe beynge within the shire, ryddynge, cytie or towne corporate, as well within lib'tie as without, wherin such brydges or any parcell therof shall happen to be, or ells ij of the moste honeste inhabitauuts within ev'y suche towne or parysshe in the said shire, ryddynge, cytie, or town corporate, by the discrecyon of the saide Justyces of Peace or iiij of them at the leaste wherof one to be of the quo'm; and at and upon the apparaunce of suche constables or inhabitaunts, the said Justices of Peaces or iiij of them, whereof one to be of the quo'm, with the assente of the saide constables or inhabytaunts, shall have powers and auctoritie to taxe and sette ev'y inhabitaunt in any such cytie, towne or parysshe within the lymttes of their commyssions and auctorities to suche reasonable ayde and somme of money as they shall thynke by theyre discrecions convenyent and sufficyent for the repayrynge, reedefyenge and amendement of suche brydges; and after suche taxacion made, the saide Justices shall cause the

RATING.

The Taxes now Leviable.

Its ancient purposes were to provide for the maintenance of the County Courts, for the expenses incidental to the County Police, and the Civil and Military Government of the County; for the payment of common judicial fines; for the maintenance of Places of defence, (sometimes, however, provided for by a separate tax common to Counties and to other districts, called Burgbote,) Prisons, Gaols, Bridges, (when these were not provided for by a separate tax common to Counties, and to other districts, called Brukbote,) and occasionally Highroads, Rivers, and Watercourses, and for the payment of the wages of the Knights of the Shire. Additions to these purposes, some occasional and some permanent, were made from time to time by statutes. The King's aids, taxes, and subsidies were usually first imposed on the County, and collected as if they had been County Taxes.* But the first statute de-

Appointment of collectors of such Rates.

names and sommes of ev'y particuler p'sone so by them taxed, to be written in a rolle indented, and shall also have powar and auctoritye to make too collectours of ev'y hundrede for collection of all suche sommes of money by them sette and taxed; which collectours receyvynge the one parte of the said rolle indented under the seales of the said Justices shall have power and auctoritie to collecte and receyve all the particuler sõmes of money therin contayned, and to distreyn ev'y suche inhabitaunt as shalbe taxed and refuse payment therof in his landes goodes and catells and to sell suche distresse and of the sale therof retayne and p'ceyve all the money taxed, and the residue (if the distresse be bett'd) to delyv'r to the owner thereof."

"23*rd Hen.* 8, *c.* 2.

A.D. 1531—32. Justices shall rate the inhabitants to the amount necessary for building, &c., such gaol's;

"And that also the said justices of peace in ev'y of the said shires, or the moost parte of the said justices of peace, within the limites of their co'mission, shall have full power and auctorite to call before them at tymes and places by theym to be appoynted, all the high constables, tithing men, or borough holders of ev'y hundred, lathe, or wapentake in the shere whereof they be justices, and in thir p'sence and by theyr assentes and agreamentes, or in the p'sence and by thassent of the moost parte of them, shall conclude and agree upon such conveniente and c'tayne sommes of money as shalbe thought by theyr discrecions and by examynacion of workmen to suffice for the making and pfecte fynysshing of a new jaile in the shere whereof they be justices of peace, and thereupon shall forthwith, by theyr assentes, agreamentes, and discrecion, tax and sett ev'ye suche p'sonne and p'sonnes as than shalbe resсant in the same shire, as well within lib'ties as without, havyng londes, tẽntes, rentes, or annuities of estate of enheritaunce or for terme of liffe, to the clere yerelie value of fourtie shillinges or above, or beyng worth in moveable substaunce the clere value of twentie pounde or above, to suche reasonable ayde and sommes of money as sha'be thought convenyent by theyr discrecions to and for the full buylding, making, and fynysshing of the said common jaile of the shere where suche assessement shalbe made; and after suche taxacion, to name and appoynte suche nombre of collectours for the levying thereof as shall seme best by their discrecions: And that the said collectours and ev'y of them shall have power and auctoritie to distreyne ev'y suche p'sonne as shalbe sett or taxed by the said justice of peace, as is aforesaid, in their londes or goodes, as well within lib'ties as without, and to sell the distresses by theym taken by thappreysement of foure honeste p'sonnes for the payment of the said sommes to be taxed, if the p'sone or p'sonnes taxed refuse to paye the same within ten dayes nexte after suche distresse taken, taking upon ev'y suche sale but onely the money taxed with reasonable costes for taking of the distresse, and the ov'plus of such sales to be delyv'ed to the owner of the said distresse."

and shall appoint collectors of the Rate.

* The following are some of the statutory provisions bearing upon the connected system of township, hundred, and county taxation, before the period at which the statutes now in force were passed.

Township Rates.

"52*nd Hen.* 3, *c.* 24.

A.D. 1267. "The Justices in Eyre from henceforth shall not amerce townships in their cir-

RATING.

The Taxes now Leviable.

fining any of its present purposes (though now repealed as to the mode it prescribes for imposing the tax) was passed in the 22nd year of the reign of Henry VIII. From that time to the present new purposes have constantly been added; and up to the 12th year of

---

cuits, because all being twelve years old came not afore the sheriffs and coroners, to make inquiry of robberies, burnings of houses, or other things pertaining to the Crown; so that there come sufficient out of those towns, by whom such enquests may be made full; except enquests for the death of man, whereat all being twelve years of age, ought to appear, unless they have reasonable cause of absence."

Amercement of towns in Eyre.

"25*th Edward I., Magna Carta, c.* 12, 22.

"15. No town nor freeman shall be distrained to make bridges nor banks over rivers, but such as of old time and of right have been accustomed to make them, in the time of King Henry our grandfather."

A.D. 1297. Making of bridges.

Hundred Rate.

"13*th Edward I. The Statute of Winchester.*

"11. Likewise when need requires, inquests shall be made in towns, by him that is lord of the town, and after in the hundred, and in the franchise, and in county, and sometimes in two, three, or four counties, in case when felonies shall be committed in the marches of shires, so that the offenders may be attainted. And if the county will not answer for the bodies of such manner of offenders, the pain shall be such that every county, that is to wit, the people dwelling in the county, shall be answerable for the robberies done, and also the damages, so that the whole hundred where the robbery shall be done, with the franchises being within the precinct of the same hundred, shall be answerable for the robberies done. And if the robbery be done in the division of two hundreds, both the hundreds and the franchises within them shall be answerable."

A.D. 1285. Inquests of felonies.

The hundred answerable for robberies.

County Rate.

"3*rd Edw.* 1, *Stat. Westm. prim. c.* 16, 18.

"18. Forasmuch as the common fine and amerciament of the whole country in Eyre, of the justices for false judgments, or for other trespass, is unjustly assessed by sheriffs and baretors in the shires, so that the sum is many times increased, and the parcels otherwise assessed than they ought to be, to the damage of the people, which be many times paid to the sheriffs and baretors, which do not acquit the payers; it is provided, and the King wills, That from henceforth such sums shall be assessed before the justices in Eyre, afore their departure, by the oath of knights and other honest men, upon all such as ought to pay; and the justices shall cause the parcels to be put into their estreats, which shall be delivered up unto the Exchequer, and not the whole sum."

A.D 1275. Assessing of common fines on the county.

The following is one of the most complete and specific of our earlier statutory provisions, and shows in one view the nature of the system then in use and which the statute proposed in some respects to correct.

County Rate. Hundred and Town Rates.

"23*rd Hen.* 6, *c.* 9, 10.

"10. Item. Whereas, before this time, divers sheriffs in divers counties of England, by colour of writs to them directed, to levy the wages of the knights of the shires for the time being, of the Parliament of the King that now is, and of his noble progenitors, have levied more money than hath been due to the said knights, and more than they have delivered, keeping and retaining great part of the money to their own use and profit, to their officers and servants, to the great loss of the common people of the said counties; the King, considering the premises, hath ordained by the authority aforesaid, that the sheriff of every county for the time being, in the next county court holden in their counties, after the delivery of the said writs directed to them, shall make open proclamation, that the coroners, and every chief constable of the peace of the said counties, and the bailiffs of every hundred or wapentake of the same county, and all other which will be at the assessing of the wages of the knights of the shires, shall be at the next county there to be holden to assess the said wages of the said knights; and that the sheriff, under sheriff,

A.D. 1444—5. Extortion of sheriffs in levying wages of knights of the shire.

Appointment of County Court to assess such wages.

Penalty on sheriff, &c, for absence.

RATING.

The Taxes now Leviable.

Geo. II. new and distinct rates were constantly created for purposes of comparatively little importance, and to raise sums of money quite insignificant in amount. Thus before the passing of the 12 Geo. II., c. 29, there were at least seven rates for seven distinct and different purposes, leviable separately, throughout each of the 54 counties in England and Wales, viz.—

1 separate rate for County Bridges.
1 separate rate for Building and Repairs of County Gaols.
1 separate rate for Building and Maintaining Houses of Correction for Vagrants.
1 separate rate for the Passing and Conveying of such Vagrants.
1 separate rate for the Relief of Prisoners, called Gaol Money. Not to exceed sixpence or eightpence weekly for each parish.
1 separate rate for Relief of Poor Prisoners (Debtors) and for setting them to work. No parish to be rated for these purposes at more than sixpence weekly.
1 separate rate for Relief of Poor Prisoners of the King's Bench and Marshalsea. Each county to send 20*s.* at least yearly to each of the said prisons.

These separate rates, for the most part, were collected from a whole parish liable to the tax. There were, however, some cases

---

coroners, or bailiffs for the time being, be there at the same time in their proper persons, upon pain of forfeiture to the King, of every of them that maketh default forty shillings, at which time the said sheriff or under sheriff, in the presence of them that shall come to the same, and of the suitors of the same counties then being there, in the full county well and duly shall assess every hundred assessable by itself, to pay a certain sum for the wages of the knights of the shire, so that the whole sum of all the hundreds do not exceed the sum which shall be due to the said knights; and after that, in the same county, shall assess well and lawfully every village within the said hundred which should be there assessable to a certain sum for the payment of the said wages; so that the whole sum of all the towns within any of the said hundreds, do not exceed the sum assessed upon the hundred of which they be. And that the said sheriffs, under sheriffs, bailiffs, nor none other officers, for the cause aforesaid, shall levy more money of any village than that whereunto they were assessed: And if any do or will assess any hundred or village otherwise than is aforesaid, that they shall forfeit for every default to the King twenty pounds, and to any man which will sue in this case ten pounds. And that the said sheriffs well and duly shall levy the money so assessed upon the aforesaid villages as speedily as they well may after the said assessing, and the same shall deliver to the said knights, according to the writs thereof to be made, upon the said penalties; and he that will sue in this case shall be thereunto admitted, and shall have for his action in this case a *scire facias* against him that offendeth contrary to this ordinance; and if the defendant, duly warned, make default, or else appear and be convict, that then the plaintiffs shall recover against them which be so convict ten pounds to their own use, over the said twenty pounds, with their treble damages for the costs of their suits. And the justices of the King's Bench, and of the Common Pleas, justices of assizes and gaol delivery, and justices of peace in their country, shall have power to inquire, hear, and determine of all the said defaults, as well by inquiry at the King's suit as by action at the suit of the parties: And that all such expenses of knights shall not be levied of any other villages, seigniories, or places, but of such whereof it hath been levied before this time: And that in every such writ from henceforth to be made to levy the wages of the said knights, this Act shall be comprehended in the same.

Each hundred and each township shall be assessed by itself.

Penalty on levying more than is assessed.

Sheriffs shall levy the money and pay it to the knights.

Recovery of penalties.

Treble costs.

Such wages shall be levied only where usual.

RATING.

The Taxes now Leviable.

in which these insignificant rates were appointed to be assessed directly on the individual persons liable to pay them—as in the 22 Hen. VIII. c. 5, and the 23 Hen. VIII. c. 2, before quoted in a Note. But in either way immense trouble and cost were incurred in the imposition of rates, individually quite inconsiderable in amount. In one case the contribution of a whole parish had been fixed 'so 'as no parish be rated above the sum of sixpence, nor under the 'sum of one halfpenny, weekly to be paid, and so as the total sum 'of each taxation of the parishes in the county amount not above 'the rate of two pence for every parish within the county.' (43 Eliz. c. 2, s. 12.) In another case, 'the contribution for the whole 'county was to be 20*s.* at the least, yearly, to each of the prisons 'of Queen's Bench and Marshalsea, which sums, rateably to be 'assessed upon every parish, the churchwardens of every parish 'shall truly collect and pay over.' (43 Eliz. c. 2, s. 13.) Another Act, of the 14th Elizabeth, required every parish to be rated for the relief of prisoners, 'so as no parish be rated above sixpence or 'eightpence weekly;' the churchwardens of every parish being required to levy the same every Sunday (14 Eliz., c. 5). The results of this multiplication of rates for distinct purposes are succinctly stated in the preamble of 12 Geo. II. c. 29, where it is recited, 'that it is apparent that the manner and methods pre-'scribed by the said several respective Acts for collecting some of 'the said rates are *impracticable*, the sums charged on each parish 'in the respective divisions being so small that they do not, by an 'equal pound rate, amount to more than a fractional part of a 'farthing in the pound on the several persons thereby rateable; 'and *if possible to have been rated, the expense of assessing and 'collecting the same would have amounted to more than the sum 'rated.*'

The 12 Geo. II. c. 29, authorized one general County Rate, in the stead of all these insignificant rates, and directed this general rate to be paid by each parish or township in one whole sum, to be taken out of the Poor's Rate, or levied in the district in like manner as the Poor's Rate.

Since the 12 Geo. II. the Legislature has been rather more consistent in connecting all new purposes for which the county must be taxed with the existing County Rate. The list of the purposes of the County Rate (App. A. p. 418, **28**) shows this. Those purposes include the purposes of all the separate rates consolidated by the 12 Geo. II. and described above, besides between 40 and 50 other purposes more or less comprehensive, to which the rate has been applied by subsequent statutes. Amongst those purposes are included the compensations for Gaol Fees (App. A. p. 131), which are only to be raised by a separate rate in places not contributing to a County Rate and having no Town Rate or public stock. But this good policy has apparently been forgotten in several instances. Thus the insignificant expense for reim-

— the Gaol Fees Rate;—

— the Burial of Dead Rate;—

RATING.
The Taxes now Leviable.

bursing to overseers the costs incurred in the BURIAL OF THE DEAD human bodies found on the shore of the sea (App. A. p. 495) is by the terms of the statute (48 Geo. III. c. 75, s. 14) to be provided for by a separate rate. If this were complied with, the effect would be an exaggeration of all the absurdities recited by the 12 Geo. II.,—for the contribution, not of each person only, but of the whole parish, would usually be only a fractional part of a farthing. The justices of the peace never appear to regard the statute, but habitually pay the expense out of the proceeds of the general County Rate.

—the County Rate for Lunatic Asylums;—

The COUNTY RATE FOR LUNATIC ASYLUMS (App. A. p. 473) also is another revival by statute (9 Geo. IV. c. 40) of the old practice of requiring a special rate to be made over a very wide district for a purpose of comparatively small importance as to the amount to be levied. In practice, the justices of the peace have usually, if not in all cases, disregarded the express direction of the statute to make a special rate, and have applied the general County Rate to the purpose.

—the County Rate for Shire Halls;—

The COUNTY RATE FOR SHIRE HALLS, Assize Courts, Sessions Houses, Judges' Lodgings, &c. (App. A. p. 485) was also authorized by a very recent statute with a like disregard of the better policy of providing for objects concerning the whole county out of the general County Rate. The usual practice, however, is the same as in the last case: the justices habitually pay the expenses out of the County Rate.

—the Police Rate;—

The County Rate was at first, by 2 and 3 Vic. c. 93, s. 20, applied to the purpose of the County and District Police Force, with a power to the Quarter Sessions, when the force was not introduced throughout the whole of the county, to increase proportionally the County Rate for the respective divisions in which it was introduced (ss. 21, 22). This arrangement was abrogated in the next year, and a separate POLICE RATE (App. A. p. 509) authorized instead. This rate, however, whether raised throughout the county or in separate police divisions, is still to be collected and levied with, and as part of, the County Rate.

—the Borough Rate;—

In the cities, corporate towns, and boroughs in which the county justices have not jurisdiction, or only partial jurisdiction, the purposes of the County Rate are usually attained by a City, Borough, or Town Rate, made, where the city, borough, or town is in law but one township by the general custom by which town levies are raised—in other cases the direct derivative from the ancient burgbote—in others again made by special custom, or under a local Act, or under colour of a charter, though it is doubted whether a charter could originally confer this power to raise a tax. As regards the cities, towns, and boroughs named in Schedules A and B of the Municipal Corporations Act (5 and 6 Wm. IV. c. 76), a power is given to the Borough Council, whenever the other income of the place is not sufficient for all the purposes of the borough fund, to make a BOROUGH RATE (App. A. p. 531,) in the nature

of a County Rate, for which they are invested with the like powers as justices of counties at Quarter Sessions. RATING.

The Taxes now Leviable.

In any of these same boroughs named in Schedules A. and B., where any part of the borough is watched both by day and night, if the Borough Fund and Watch Rate are not sufficient, the council may make a special BOROUGH WATCH RATE (App. A. p. 555), and levy it in a manner very similar to that in which the Borough Rate is to be levied. —and the Borough Watch Rate.

After the Township, Hundred, and County Taxes, the CHURCH RATE is unquestionably the most ancient of the present local taxes. The attempt to identify the rate with the ancient kirk-sceat pointed to a much more ancient origin; but as the question whether this be or be not its real origin has not been much examined, and inasmuch as the existing modes of imposing and levying the rate are undoubtedly of much more recent origin, legal writers and judicial authorities generally agree in referring it to the period when the intervention of the inhabitants in assessing the rate, first becomes apparent in our judicial records, the earliest of which is contained in the Year Book of the forty-fourth year of Edward the Third's reign (1369—70), and refers to a custom in a parish which would carry the practice back to the beginning of the reign of Richard the First, that is, to the year 1189. In this point of view this tax is made to appear of a much later origin than the imposts on townships, hundreds, and counties. The Church Rates, and—

The burden of repairing the Church, originally the duty of the bishop, and by the canon law imposed upon the rector, or other recipient of the tithe and other ecclesiastical revenue of the parish, was, so far as that part of the church is concerned which was appropriated to the use of the people,—the nave of the church,—cast in very early times on the parishioners, while the part of the church appropriated to the priest,—the chancel, was generally left to be repaired by the parson, though this also is sometimes by custom transferred to the parishioners.

The Church Rate was for many centuries the only parochial tax, and as many parts of the country were extra-parochial, the tax was, of course, levied somewhat less extensively, as regards territory, than the taxes imposed on townships; still it was very nearly universal throughout England.

The rate is, as to most of its purposes, and entirely as to its present mode of imposition on property and persons, founded on immemorial custom. On this account its incidence is the most incapable of being accurately described. Enforceable until very recently by ecclesiastical authority alone, and only by means of spiritual censures, the courts of common law have been lavish of prohibitions to the spiritual courts to prevent the latter from establishing new doctrine or extending or modifying the old, so as to make it keep pace with the improvements of the doctrines applied by the common law courts to other taxes. Nor has Parliament

RATING.

The Taxes now Leviable.

ever succeeded, though the attempts have been very numerous, in altering the incidence of the tax, except in the single instance of exempting places of worship from its operation. The mode of enforcement by spiritual censure perhaps explains why, notwithstanding its antiquity, and the territorial extent of its operations, and the existence of proper officers already charged with its collection, the rate had never, even when no religious scruples impeded its extension, been thought by the Legislature a fit one to apply to temporal uses. Whatever may be the abusive application of this rate in practice, legally it still remains applicable only to purposes strictly connected with the fabric and service of the church.

—the New Church Rate and the Burial Ground Rate.

The NEW CHURCH RATE (App. A. p. 311, 28.) and the BURIAL GROUND RATE (App. A. p. 347.) have been authorized for special purposes by recent statutes. Their basis is exactly that of the Church Rate. They appear, however, so far as the payments of principal money borrowed, and of interest on it, are concerned, to be independent of the will of the vestry; inasmuch as the Court of Queen's Bench will compel by *mandamus* the levy of the amounts due, although the vestry may have refused the rate, or may have agreed to a rate of inadequate amount.

The Sewers' Rate.

The rate next to the Church Rate in antiquity is the SEWERS' RATE. (App. A p. 351.) This rate was first authorized within the several districts included by the Commissions of Sewers issued by virtue of the 6 Hen. VI., c. 4, 1427, a statute not materially differing from the statute which still regulates the imposition of the rate,* the 23 Hen. VIII., c. 5. The districts within which it is raised are entirely arbitrary, and have no legal relation to any other civil or ecclesiastical divisions. It has suffered less modification since its creation than any other tax. It is still by law to be imposed for the same purposes, on the same property and persons, and by the same officers, as at first. Its incidence

* The resemblance between the original statute and the one now in force, so far as they relate to the Sewers' Rate, may be seen by the following extract:

6th Henry 6, c. 4.

A.D. 1427. Inquiring who hath lands, common, or fishing there, and who may have loss by any such annoyances or benefit by the repair of them.

Distraining for reparations.

"To enquire by the oath as well of knights as other good and lawful men of the said county as well within liberties as without, by whom the truth of the matter may be best known, by whose default such damages have there happened, and who doth hold lands and tenements, or hath any common of pasture or fishing in those parts, or else in any wise have, or may have the defence, profit, and safeguard, as well in peril nigh as from the same far off, by the said walls, ditches, gutters, sewers, bridges, causeys, and wears, and also hurt or commodity by the same trenches, and there to distrain all them for the quantity of their lands and tenements, either by the number of acres, or by their plow lands, for the rate of the portion of their tenure, or for the quantity of their common of pasture or fishing, together with the bailiffs of liberties and other places of the counties and places aforesaid."

6th Henry 6, c. 5.

A.D. 1427. None shall be spared that may receive any benefit or loss.

So that no tenants of lands or tenements, nor any having common of pasture or fishing, rich or poor, nor other of what condition, state, or dignity, which have or may have defence, commodity, and safeguard by the said walls, ditches, gutters, sewers, bridges, causeys, or wears, or else any hurt by the said trenches, whether they be within liberties or without, shall in anywise be spared in this.

RATING.

The Taxes now Leviable.

on property and persons is peculiar, but, we conceive, remarkably well adjusted to the purposes of the rate. We believe, however, that it will be found that the directions of the statute for the taxation of persons and property are very rarely, if ever, regarded at present in practice.

The General Sewers' Tax.

In the Session of Parliament of 1841, the GENERAL SEWERS' TAX (App. A. p 379.) was first authorized. It appears to have been intended to supply funds for some part only of the objects of the Sewers' Rate, and those seemingly the objects of the most temporary character, namely, the recompenses and allowances of officers, the allowances to witnesses before the Court of Sewers, the allowances to jurymen, the expenses attendant on the making, collecting, and expending of rates, the costs of litigation, and contingent expenses. At the same time it appears to provide for a new purpose, the repayment of instalments and interest for money borrowed for these temporary purposes: but to authorize this charge on future ratepayers, for the especial purpose of defraying expenses of a peculiarly temporary character, appears to be so contrary to principle and the ordinary practice of the legislature, that we apprehend that we may not have correctly conceived the effect of the Act. The tax is to be assessed and levied in gross; and, in order to effect this, the power of levying fines and amerciaments in gross on the whole of a parish or township is extended to this purpose.

The Poor's Rat and the rates o the same basis, viz.—

The next in order of antiquity after the Sewers' Rate is the POOR'S RATE. (App. A. p. 17.) The support of the poor was in the earliest times a parochial concern, being connected with the maintenance of the church. The church rate and poor rate were thus for some time the only parochial taxes. Before the 27 Hen. VIII., 1536, the relief of the poor had been a legal charge, but undefined in amount, on the revenues of the secular clergy, aided by the many exclusively charitable foundations, and by the regular alms of the monasteries and religious houses, collegiate churches, hospitals, and cathedrals, which were partly destined to this purpose by the specific bequests of many generations of donors, testators, and benefactors, and partly afforded by the voluntary liberality of these bodies. The 27 Hen. VIII., c. 25, was passed in the year after the suppression of the smaller monasteries, and in the same year in which the second and great visitation of these religious bodies took place. The statute enjoined the head officers of cities, shires, towns, and parishes to keep the poor, and to set and keep to work valiant beggars, by way of voluntary and charitable alms. It required the head officers of corporate towns, and the churchwardens and two other annual officers of every parish, to collect these voluntary alms. Every preacher, parson, vicar, and curate, as well in their sermons, collections, bidding of beads, as in the time of confession and making of wills, was to exhort, move, stir, and provoke people to be

RATING.

The Taxes now Leviable.

liberal for these purposes. Thus a new but voluntary fund was introduced to replace the revenue, of which the King's portion alone, by Bishop Burnet's calculation, amounted to about 1,600,000*l.* a-year,—a sum greatly exceeding twice the amount of the expenditure for the relief of the poor two centuries later, which, in 1748-49 and 50 was on the average 689,971*l.* a-year. The 5 & 6 Edw. VI., c. 2, passed in 1551, seeks to stimulate the contributions to these voluntary alms. The collectors appointed under the statute are enjoined, on the Sunday next or next but one after Whitsunday, gently to ask every man and woman what they of their charity will give weekly towards the relief of the poor, to write the same in a book, and to distribute what they collect weekly to the poor and impotent. If any one able to further the charitable work do obstinately and frowardly refuse to give, or do discourage others, the minister and churchwardens are gently to exhort him; if he will not be so persuaded, the bishop is to send for him and induce and persuade him by charitable ways and means, and so according to his discretion take order for the reformation thereof. All this accumulation of gentle persuasives, backed in last resort by the undefined discretion of the bishop for reformation of defective charity, failed to stir and provoke the people to contribute a sufficiency of voluntary alms. The 5 Eliz., c. 3, 1563, gave the first authority for what may be strictly called a tax, but still only as an alternative to the voluntary alms, and as the very last resort against the obstinacy of recusants. It enacts that if any person of his froward, wilful mind shall obstinately refuse to give weekly to the relief of the poor, according to his ability, the bishop shall bind him to appear at the next sessions; and at the said sessions the justices there shall charitably and gently persuade and move the said obstinate person to extend his charity towards the poor of the parish where he dwelleth; and if he will not be persuaded, the justices, with the churchwardens, may tax him, according to their good discretion, what sum he shall pay weekly towards the relief of the poor within the parish where he dwells: if he still refuse, the justices, on complaint of the churchwardens, are to commit the obstinate person to gaol until he pay the sum so taxed with the arrears. The 14 Eliz., c. 5, 1572, modifies, but still continues this combination of the voluntary with compulsory contribution. It enables the justices to settle such of the poor as the parishes do not provide for, in abiding places, fixed by the justices, within their divisions. The justices are to apportion the relief and sustentation of these poor people; and that done, shall by their good discretions tax and assess all the inhabitants dwelling within their divisions to such weekly charge as they and every of them shall weekly contribute. If any person obstinately refuse, he is to be brought before two justices to abide their order, or to be committed to gaol until he shall be contented with their order, and

RATING.

The Taxes now Leviable.

do perform the same. At length the 39 Eliz., c. 3, 1598, reverting to the parish as the district in which the poor were to be relieved, made the burden wholly compulsory, and established the tax for relief of the poor in almost all respects as it was four years later settled by the 43 Eliz., c. 2.

The 43 Eliz., c. 2, 1601, fixed the burden of the poor on parishes, required certain classes of persons to be taxed weekly, and enumerated some kinds of property in respect of which the tax was to be imposed. This was all very rudely done; and nearly two centuries and a-half of active litigation and judicial interpretation have still left the incidence of the tax, in many respects, a matter of doubt. It was only between the years 1790 and 1800, that the Courts affirmed the general liability of stock in trade to be rated, or in any clear way indicated what was the liability of inhabitants, the first of the three classes of persons made liable by the statute. The extent of the liability of the second class of persons, parsons and vicars, is still very indefinite; and intricate and difficult questions still exist as to the liability of tithe, of underwoods, and especially of mines.

Nevertheless, there was a distinct district fixed which was perhaps as convenient for raising the tax as the township, and certainly not so inconvenient as the county or the hundred, or the districts of the Commissions of Sewers. There was a legal enumeration of the persons liable, and the properties in respect of which they were made liable. There were definite officers with definite powers for the imposition of the tax. The comparative largeness of the burden excited at all times more than ordinary attention to it, and therefore caused more than ordinary care to be used in its adjustment; the Courts were soon and actively called on to interpret the Act in cases of difficulty; and it being formerly more than now the habit to lay down, in judicial decisions, general principles, there was soon promulgated a body of rules, which made, in early times, the practice vastly more legal and uniform than was or is even now the case in assessing most of the other rates.

Two considerable consequences have followed; first, that while most of the other taxes were constantly varying, no legislative change took place in the imposition of the Poor's Rate for upwards of two centuries; it was not till 1833 that places of worship were exempted from the tax, nor till 1840 that stock in trade was exempted. In 1836 a standard for the rateable value was introduced, which was intended to be merely declaratory of the pre-existing law, but did undoubtedly effect a change in the law. These are all the legislative changes which have been made in the imposition of the tax. On the other hand, although the tax has thus remained substantially unaltered, there has been a constant addition of facilities for its amendment, for its levy, and for the protection of the fund by increasing the responsibility of the officers.

RATING.

The Taxes now Leviable.

The second important consequence is, that all rates subsequently created have been moulded upon the Poor's Rate; and even the more ancient rates have in practice lost their distinctions, and are imposed on the same basis as the Poor's Rate. Thus, as before observed, the Constables' Rate, authorized by the 13 and 14 Car. II., was made in all respects conformable to the Poor's Rate. The County Rate, by the 12 Geo. II., c. 29, was at length assimilated to the Poor's Rate in the most effectual manner, except that the terms of the Act are in some respects ambiguous, by the direction that it shall generally be paid out of the Poor's Rate. The rates that have been more recently created or reformed have all, with the exception of the General Sewers' Tax, been laid upon the same persons and property as the Poor's Rate. Thus the GAOL FEES RATE, the HIGHWAY RATE, the LIGHTING AND WATCHING RATE, the MILITIA RATE, the WORKHOUSE BUILDING RATE, and SURVEY AND VALUATION RATE, are all directed, in language more or less adequate for the purpose, to be imposed on the same persons and property as the Poor's Rate; while, with regard to the more modern rates for aggregated districts, the RATE FOR LUNATIC ASYLUMS, the RATE FOR SHIRE HALLS, the RATE FOR THE BURIAL OF THE DEAD, the modern HUNDRED RATE, the POLICE RATE, the BOROUGH RATE, and the WATCH RATE FOR BOROUGHS, the same course has been taken as with the County Rate, they being all required either to be paid out of the Poor's Rate, or imposed on the same persons and property.

—the Gaol Fees Rate;
—the Highway Rate;
—the Lighting and Watching Rate;
—the Militia Rate;
—the Workhouse Building Rate; and
—the Survey and Valuation Rate.

But the adoption of the principles of the Poor's Rate has gone yet further, inasmuch as the Church Rate, without any statutory authority for the practice, is, we believe, invariably laid on the same persons and property, with the exception of the incumbent of the parish and his property, as the Poor's Rate. Even the Sewers' Rate, the basis of which is by law entirely different from that of the Poor's Rate, is commonly imposed in exactly the same manner.

As we have stated, each of the above rates is a separate and distinct rate, distinguished from all the rest by the different purposes to which it is lawfully applicable, and most of them have distinct machinery, with distinct powers for their imposition and enforcement.

The present purposes and applications of these Rates.

The various purposes of these several rates, so far as we have been able to ascertain them, are collected in Appendix B, (**28**), as defined by the statutes which authorize their application. These purposes amount to nearly 200.

The purposes are incapable of being expressed by any concise definition or description. Even the purposes to which a single rate is applicable are often of the most dissimilar description;—

Purposes of the Taxes.

this is especially the case of the Poor's Rate, the purposes of which are most heterogeneous. Other of these purposes are very slightly distinguishable each from each, even when provided for by different rates; for instance, constables' expenses are payable out of six different rates, namely, by a Constables' Rate, by the Poor's Rate (18 Geo. III., c. 19, s. 4), by the Watching Rate, by a Special Watch Rate in boroughs, by the County Rate in the case of special constables, by a Police Rate in the case of county or district constables, and again by the Poor's Rate in the case of local constables; and three of these modes of providing for constables' expenses may co-exist in the same place. The purposes thus imperfectly defined are the subject of reiterated enactments, but are, after all, very rarely made sufficiently comprehensive to include all the occasions for expenditure to which the respective rates may be beneficially applied, and many matters of most pressing necessity are constantly found to be unprovided for. In such cases the Poor's Rate was formerly made use of without much regard to the fact whether the law did or did not authorize the application. Since an audit was provided for the Poor's Rate, other rates have been more commonly resorted to on the like occasions of necessity. But the use of any rate for purposes not legally sanctioned, though beneficial or necessary, rarely stops there, for the rate once so misapplied easily becomes a fund out of which provision is made for more irregular and mischievous expenditure. Various attempts have been made in Parliament, both with a view to authorize certain reasonable and beneficial applications of the Poor's Rate, and with a view effectually to check the unauthorized misapplication of this and other rates, but as yet without success.

Combination of purposes to prevent the multiplication of distinct Rates.

In order to prevent the rapid multiplication of new rates, as new occasions were recognized for public expenditure, it has been the more usual custom, especially since the 12th year of George the Second's reign, 1739, when the consolidation of the County Taxes took place, to charge all new expenses upon some existing rate, instead of creating a new rate for the occasion. The greatest number of new charges have been imposed upon the Poor's Rate, the next greatest number on the County Rate. Many of these new charges differ widely in their nature from the original purposes for which the rates were first imposed, but the beneficial result has been obtained of diminishing the number of separate rates that may be imposed in any one district.

Another practice analogous with the above, which had its origin at the same period, and has been considerably extended since, is that before described, of taking the County Rate out of the Poor's Rate, an example which has been followed subsequently in all the rates described in page 7, as being made for aggregated districts. A new tax is thus created or an old tax continued: but its repartition and collection, the most difficult

RATING.

Purposes of the Taxes.

and expensive processes, are effected as part of the Poor's Rate. Thus all the various purposes of the General County Rate, of the County Rate for Lunatic Asylums, of the County Rate for Building Shire Halls, of the Rate for the Burial of Dead Bodies, of the Hundred Rate, of the Police Rates, of the Borough Rates, and of Watch Rates in Boroughs, are for the most part provided for by taxes imposed by special authorities, but paid out of the Poor's Rate.

The number of rates to be separately levied on each individual ratepayer has by these two operations been greatly reduced, and the single rate for the Relief of the Poor, besides providing for all its own original and secondary purposes, also serves as the means of imposing and levying eight other distinct rates, one of which, the County Rate, itself consists of the consolidation of seven former taxes.

—other causes of he reduction of he number of Rates levied.

There would still remain fifteen separate and distinct rates which might be levied on any one parish or township. But this number is again reduced by various practices, which, though unlawful, are much more convenient than the lawful practice would be. Thus the Gaol Fees Rate was, we believe, never collected separately, being, in fact, too small in amount to be capable of collection:—it was therefore unlawfully, but almost necessarily, paid out of the County Rate. Thus also the separate Highway Rate for the Purchase of Land, and the separate Highway Rate for Law Expenses, appear, so far as we can learn, never to have been made on those occasions where the law enabled them to be raised; but the purposes have been more conveniently attained by the use of the common Highway Rate, even in cases where the amount of the latter rate has, by this addition, been made to exceed the limit fixed by law. In the same manner the Lighting and Watching Rate is frequently paid out of the Poor's Rate, in defiance of the provisions of the statute which imposes a liability on the occupiers of houses and of similar property to be rated at an amount three times greater than that at which the occupiers of land are rated. We believe also that the Militia Rate, notwithstanding some exemptions of persons peculiar to that rate, has invariably been merged in the Poor's Rate. In the few instances in which a Burial Ground Rate has been required, we believe that the expenses have likewise been paid out of the ordinary Church Rate, and the same course would probably be found to have been adopted in any instances in which repairs have been required for new churches or chapels acquired or appropriated under the 58 Geo. III., c. 45, or the 59 Geo. III., c. 114, or the 3 Geo. IV., c. 72.

Besides the above modes by which the number of collections of different rates have been reduced, partly by legal consolidation, and partly by illegal practice, there is still a further reduction of the number of the rates that can actually be levied in any district,

RATING.

Purposes of the Taxes.

There are several rates for which the law has made provision so inadequately, that it is impossible to levy them: thus the Workhouse Building Rate, and the Survey and Valuation Rate are quite incapable of being enforced. It would have been extremely convenient in some cases to have been able to resort to those rates; but the want of sufficient legal powers to impose and levy them has caused the Poor's Rate to be again resorted to.

The Constables' Rate is collected in places where county rates are payable, but in which there is no Poor's Rate; and also in places where there is a Poor's Rate, but where the County Rate does not apply to the whole of the place for which the Poor's Rate is levied; it is also collected throughout several of the northern counties for the purpose of reimbursing the Petty Constables for the County Rates paid by them. But in all other places it is very rarely, if ever, raised; the purposes of the rate being again, with questionable legality, provided for out of the Poor's Rate, under colour of the provision in the 18 Geo. III., c. 19, s. 4, for the repayment of the Constable's disbursements.

The diminishing frequency of the occasions for a rate makes the vexation of collecting it separately more distinctly felt, and increases the motive to cast the burden on some other rate. It would probably appear, on inquiry, that the Gaol Fees Rate is obsolete in most counties by the death, retirement, or removal of all persons entitled to its proceeds, and that the original smallness of the sum to be raised, and the gradual obsolescence of the occasion for its imposition by successive deaths and vacancies, caused resort to be had in all cases to some other fund than the lawful rate.

The provision for the purposes of any rate, by means of some other new rate, or by extending the purposes of some other old rate, tends to render the first obsolete; thus, for example, the Poor's Rate having become liable to many of the purposes formerly provided for by the Constables' Rate, the County Rate to other of these purposes, and the Police Rate again for others, have rendered the imposition of the Constables' Rate less necessary, and a greater vexation where it is still imposed.

The rareness of the occasions for other rates, or the limited and local character of their purposes, render them inapplicable and unknown to the greater part of the country. The two additional Highway Rates, the New Church Rate, and the Burial Ground Rate are of this kind. The Sewers' Rate is of very limited local application. The Burial of Dead Rate can only by possibility apply to maritime counties.

The provisions as to Drainage and Enclosure Rates do not create a separate rate; they merely afford facilities for the levying the expenses incurred under Drainage and Enclosure Acts.

The Militia not being now embodied, the exercise of the powers

RATING. *Purposes of the Taxes.*

for the imposition of the Militia Rate is, for the present, suspended.

—result of these combinations and reductions.

Thus, partly with legal authority, and partly without it, the number of distinct rates imposed for all the purposes of local taxation is ordinarily reduced, where a Poor's Rate is leviable, to the Poor's Rate, the Highway Rate, and the Church Rate, with the addition somewhat frequently of the Lighting and Watching Rate and the Sewers' Rate.

But in places where a Poor's Rate cannot be levied, as in extra-parochial places, and where by consequence that rate cannot be resorted to in substitution for other rates, the number of rates levied under different denominations is often greater than in ordinary parishes. Sometimes, however, the Constables' Rate is used in such places in the same manner as the Poor's Rate is used in parishes. More frequently arrangements of voluntary origin amongst the inhabitants are acquiesced in, by which provision is made for the burdens imposed on such places. Sometimes, also, where such places are opulent or populous, or their privileges of exemption are valuable, local acts have been obtained to provide for those burdens which the districts are subject to.

On the other hand some parishes and townships, wherein an entire Poor's Rate is levied, are divided by the boundaries of two counties, or of a county and a borough, or are otherwise so situated, that a part and not the whole of the district is liable to a County or a Borough Rate; in such cases separate rates are imposed and collected under the denomination of a County or a Borough Rate, in the portions of the district respectively liable. In such places the number of rates collected under different denominations would be found to be greater than the average number of rates of different denominations in other places.

Amount of Money levied by Local Taxes.

There are no means of ascertaining, with any approach to correctness, the amount of money levied in respect of the greater number of the rates described above. The only distinct rates in respect of which comprehensive information has been obtained are the Church Rate for the years 1827, 1832, and 1839; the Highway Rate for the years 1812, 1813, 1814, 1827, and 1839; the County Rate for the years 1792 to 1841 complete; and the Poor's Rate for the several years 1748, 1749, 1750, 1776, 1783, 1784, 1785, 1803, and continuously from 1813 to 1841.

The returns as to the Church Rate and Highway Rate pretty fairly represent the amounts levied for the nominal purposes of those rates. But the returns as to County Rate represent the expenditure for several or all of the purposes of the rates described in the above list (p. 7) as *the County Rate series*. The returns

RATING.
Amount Levied.

as to Poor's Rate are still more deceptive, inasmuch as, with the exception of the sums paid out of the Poor's Rate towards the county expenditure, they include the expenditure for all those purposes of other local rates which have been before described as commonly provided for by the Poor's Rate: these miscellaneous purposes are never individually distinguished in the returns of the amount levied; the aggregate of them is, however, usually included in a column entitled "other expenses," although they do not make up the whole of the amount set forth in that column.

The highest amount, and the last amount, levied in respect of these four rates, the present valuation of real property in respect of which they are imposed, and the proportion of the rates in the pound, are respectively as follows:—

Rate.	Highest Amount Returned.			Latest Amount Returned.			Annual Value of Real Property, 1841.	Rate in the £. by last Return.	
		Levied.	Expended.		Levied.	Expended.		Levy.	Expenditure.
		£.	£.		£.	£.	£.	s. d.	s. d.
Poor's Rate . .	1818	9,320,000	7,870,801	1842	6,552,890	5,481,053	62,540,030	2 1¼	1 9
County Rate . .	1842	..	1,230,718*	1842	..	1,230,718*	,,	..	0 5
Highway Rate .	Average 3 years, 1811 to 1813.	1,407,200‡	1,407,200†	1839	1,169,891‡	1,169,891	,,	0 4¼‡	0 4¼
Church Rate . .	1832	663,814	645,883	1839	506,812	480,662	,,	0 2	0 1¾
			Total . .		8,229,593	8,362,324		2 7¼	2 8

* Amount paid to the County Treasurer out of the Poor's Rate.
† Includes estimated Expenditure of statute labours.
‡ There is no return of the amount levied for Highway Rate, but of course it is not less than the amount expended, which is the sum inserted here.

If to the above amount were added the sums applied by local authorities to local purposes, but raised under a system of taxation different from that which is adverted to in this Report, such as the Turnpike Tolls, the various Navigation and Port and Harbour dues, and the fees paid in the local administration of justice, and in the performance by various local officers of administrative duties, the sums annually disposed of by local authorities in England and Wales would appear much more considerable, and certainly could not be much short of twelve millions of pounds sterling.* If again to this were added the amounts raised and

* It will be easily understood that there exist even less materials for estimating the amount of these heads of local revenue and expenditure than in the case of the local rates and taxes before adverted to—

In *England*,	£.	s.	d.	£.	s.	d.
The revenue of the Municipal Corporations, remodelled under the 5 and 6 Wm. IV., c. 76, consisting of						
Rates and other Receipts in 1840-41, was	989,740	0	0			
City of London revenue for 1841 . .	188,521	0	0			
Carried forward .	£1,178,261	0	0			

RATING.
Amount Levied.

disposed of in a similar manner in Scotland and Ireland,* the amount would undoubtedly exceed that at the disposal of some of the more important Sovereign States of Europe, for all the purposes both of general and of local government. When it is re-

	£.	s.	d.	£.	s.	d.
Brought forward .	1,178,261	0	0			
Turnpike Trusts, expenditure in 1840 . .	1,659,154	0	0			
Light dues in England and Wales in 1832.	162,717	0	0			
Fees in the local administration of justice—						
To Clerks of Justice, average of 1830 to 1834	57,668	0	0			
To other officers in other local Courts .	unknown.					
				3,057,800	0	0

* With respect to *Scotland*, scarcely anything appears to be known of its local public revenues and expenditure.

A House of Commons Paper presented 17th May, 1830, represents the Cess levied in the Royal Burghs in 1829, as. . . .	8,777	0	0
The Report of a Select Committee of the House of Commons, presented in August, 1834, shows that the Light Dues levied in Scotland in 1832, were	35,526	0	0
It appears by the Report of the Committee of General Assembly, in 1839, that the average yearly funds raised for the relief of the poor in Scotland, in 1835-6-7, were,			
Legal Assessments . £77,239 19 0			
Church-door collections. 38,300 10 0			
Other voluntary contributions 18,976 10 0			
Sessions funds . . . 20,604 12 0			
	155,121	11	0

The following taxes are levied in Scotland, *viz.*—

1. Statute Labour Rate—Analogous to the English Highway Rate			
2. Prisons' Rate.—The assessments on the several Counties in Scotland for the purpose of building prisons under the control of the General Board of Directors, in the year 1842, is stated in their 4th Report, Appendix No. XV., to have been. . .	47,290	15	10
They state that they are unable to estimate the expense of the County Boards, including the aliment of prisoners, &c. . .	unknown.		
3. Rogue Money Rate.—For the expenses of apprehending and detaining criminals (the expenses of *prosecution* are defrayed by the Crown)	unknown.		
4. Bridge Money Rate.—For county bridges.	unknown.		
5. Church and Manse Rate.—In towns the Minister has a sum allowed him to find his own house for himself.	unknown.		
6. Schoolmaster and Schoolmaster's House Rate.	unknown.		
7. Militia Rate	unknown.		
8. Rural Police Rate.—Permissory only, as in England	unknown.		
9. Police Rate in Boroughs.—These are regulated by special Acts of Parliement for each Borough	unknown.		
Carried forward . .	£246,715	6	10

RATING.
Amount Levied.

membered that the whole of the current expenditure of the general government of this Empire for all the disbursements incidental to the legislation by Parliament, and by the Queen in Council, for all the costs of all the departments of the Home and Colonial Administrative Government, of the whole of the judicial and executive expenses of our superior Courts of Law and Equity, of the Army and Navy, and of the Diplomatic service of the country at home and abroad, does not (omitting, of course, the interest and repayment of the public debt) exceed twenty-one millions, it will be readily admitted that these funds, of which the administration is left to local bodies, do, by their great amount and the consequent extent of good or evil which may be effected by their application, justify as careful an examination of the modes in which they are imposed, levied, and applied, as is habitually extended to that portion of our public taxes which is annually brought under the consideration of Parliament.

Property affected by the Rate.

Although the Poor's Rate is defined to be a tax upon the person in respect of property, it is in no such sense a personal tax, as the old Capitation or Poll Taxes, or as the Easter Offerings, the only remaining poll-tax, or the taxes still levied on particular persons in respect of their occupations and callings. The sense in which the Poor's Rate is called a personal tax is in contradistinction to those charges which follow the real estate without regard to any changes of tenancy. The expression apparently signifies no more than that it is the occupier only who is personally liable to be rated in respect of certain kinds of property, and the parson or vicar who is liable in respect of his benefice, and the possessor of personal property who is liable in respect of his personal property; that where there are no such

	£.	s.	d.	£.	s.	d.
Brought forward . .	246,715	6	10			
10. Lighting and Watching Rates.—Likewise regulated by such special Acts of Parliament	unknown.					
11. Poor's Rates. County Cess.—Is exclusively for the Land-Tax, and does not come under the definition of a local tax	unknown.					
				246,715	6	10
With respect to *Ireland*, it appears that The County Cess Presentments in 1840, amounted to	1,269,879	12	0			
The Light Dues collected by the Commissioners of the Ballast Board in 1832, were	42.061	0	0			
				1,311,940	12	0
Total . . .				4,616,455	18	10

With respect to the *British Islands*, adjacent to England, Scotland, and Ireland, we have no information.

RATING. *Property Liable.*

persons to tax, the property cannot be charged, and that a tax in arrear would not attach to a subsequent occupier of the property, or to a subsequent incumbent of the benefice, or to a subsequent possessor of the personal property. But though certain persons only can be taxed, it is still the property alone that determines the liability of those persons; and it is the value of the property that determines the extent of that liability; moreover it is a fact unquestionable that in proportion to the burden of the tax is the value of the property in respect of which it is imposed diminished,—a fact in nowise applicable to a personal tax. Thus, notwithstanding that defined persons are liable in respect of these properties, a fact which must apply to every other property tax, it will be found upon examination that the Poor's Rate is in its operation a property tax, and not a personal tax. In more correct terms, it is a tax upon annual income derived from visible property situate within the district in which the tax is levied.

The same remarks apply to all the other local taxes, the subjects of this Report; to some of them with additional force, inasmuch as the Statutes under which they are imposed do not even refer to the persons liable but only to the property upon which the tax is to be levied; this is especially the case with the Highway Rate, and the Lighting and Watching Rate. The expressions to be found relating to the Church Rate refer to the property and rarely to the persons. The General Sewers' Tax is directed to be imposed in gross upon lands and hereditaments, but in this case there is a subsequent power to apportion the rate amongst occupiers. The confusion in regard to the County Rate, and to all the rates of that series, in relation to the persons and property liable, will be hereafter pointed out.

Property, then, is the leading consideration in the imposition of these taxes. It may be considered in two points of view; first, as to the kinds of property liable; secondly, as regards the principle of valuation by which the extent of the liability is to be determined.

1st.—As to the kinds of Property liable;

1. As to the kinds of property liable.

There is, as a matter of history, no doubt that the intention of the Legislature has been that all the rates enumerated above (p. 7) in *the Poor's Rate series,* and all the rates on the aggregate districts, enumerated as *the County Rate series,* should be imposed upon the same property as the Poor's Rate itself. It is true, however, that the terms used in the various Acts of Parliament are most discordant with that intention. In the Constables' Rate and the Militia Rate the property liable is not defined, and is only by inference identified with that liable to the Poor's Rate. In other cases it is described by very misleading terms: in the County Rate the property to be made liable in all parishes and

townships is described as the "messuages, lands, tenements, and "hereditaments rateable to the relief of the poor," terms much wider than were required as regards real property, and which wholly omit the personal property which, when the Acts were passed, was liable to Poor's Rate. In extra-parochial places, on the other hand, the County Rate correctly identifies the property with that which would be liable to the Poor's Rate. This disparity in the terms relating to 'parishes' and to extra-parochial places is extended by adoption through the whole series of rates imposed on aggregated districts. However, notwithstanding the defects in the language of the law, all the rates of the Poor's Rate series and the County Rate series have in practice been imposed, conformably, no doubt, to the real intention of the Legislature, upon the same kinds of property.

RATING. *Property Liable.*

There are two chief classes of property liable to these rates. Of the first class are the properties expressly enumerated in the 43rd of Elizabeth, of the second are the properties which the Courts have held to be liable, not by the express words, but by implication from the terms of the statute.

The properties made expressly liable by the statute of Elizabeth are— —expressly.

1. Lands;
2. Houses;
3. Tithes Impropriate;
4. Propriations of Tithes;
5. Coal Mines;
6. Saleable Underwoods.

1st. 'LANDS' are understood to include profits derivable from the use or sale of the body of the soil itself—from the growing produce of the land—and from improvements of the land. But although it thus includes quarries, clay-pits, gravel-pits, mineral waters, salt springs, &c., it is construed in the statute of Elizabeth not to include Mines, it being held that the express mention afterwards, in the statute, of 'Coal Mines' shows that it was the intention of the statute not to rate other mines.—(App. A. p. 32, 38).

Lands

The word 'Land,' as it includes generally the renewable produce of the land, would have made all kinds of wood and timber rateable. But it was held upon the same principle as that by which all mines but coal mines were exempted, that the express mention in the statute of 'Saleable Underwoods' exempts all wood and timber not coming under the denomination of saleable underwoods.

The word 'Lands' is construed to include improvements of lands by roads, bridges, docks, canals, and other works and erections not included under the term 'Houses.' If the principle of construction, by which it was held that the mention of 'Coal Mines' and of 'Saleable Underwoods' exempted all other mines and all other woods and timber, had been extended to this class of properties, it would have been held that the express mention of 'Houses' would have exempted other erections and build-

RATING. *Property Liable.*

ings not coming within the description of houses; such a construction, however, has rarely been contended for, and has not been adopted.

1. Its kinds.

2nd. 'HOUSES.' This term in practice is apparently admitted to include all permanent erections for the shelter of man, beast, or property. It did include places of worship, other than Episcopal Churches, until the 3 & 4 Wm. IV. c. 30, exempted places of worship, so far as they are used for religious purposes, or for Sunday or Infant Schools, or for the charitable education of the poor. (App. A. p. 34, **39**.)

3rd and 4th. 'TITHES IMPROPRIATE' and 'PROPRIATIONS OF 'TITHES.'

The Rent Charges payable instead of these Tithes were declared by the 6 & 7 Wm. IV. c. 71, to be subject to all kinds of Rate in the same manner as the tithe itself had theretofore been.—(App. A. pp. 34, 35. **40**, **41**.)

These two species of tithe, together with the tithe of the efficient incumbent, comprise all the tithe known in England: but it has never been held that the express mention of these two species has the same effect as the mention of coal mines and saleable underwoods, to exempt from the tax the unmentioned tithes of the efficient incumbent.

5th. 'COAL MINES.' The effect of the express mention of coal mines in exempting all other kinds of *mines* from the rate has been adverted to. The exemption extends to all mines even of matters usually quarried, as limestone mines and clay mines. On the other hand, if materials usually got by mining are taken from the surface of the earth, or by excavations not denoted by the word 'mines,' the occupier of the land is rateable for the profit as a profit of the 'land.' Where coal is procured from the surface, or by operations or by excavations not denoted by the word 'mines,' it is generally treated as a subject of the tax—being perhaps rated as 'land,' not as 'coal mines.' (App. A. p. 35. **42**.)

But a series of recent decisions has curiously broken in upon the exemption of mines. It is now held that if the owner of a mine lets it, reserving as rent a portion of the produce unwrought, he is rateable for that produce as occupying land. Thus the law now is that an owner who works the whole mine and takes all the produce is exempt as to the whole, and that a lessee is exempt as to the whole; that the owner is also exempt for his rent if reserved in money or even in the wrought or smelted produce of the mine; but that if the reservation be of a portion of the produce of the mine he is rateable for that portion.

6th. 'SALEABLE UNDERWOODS.'—The effect of these words has been much disputed; they are understood to include wood of whatever nature, cut down periodically, and shooting again from the same stem to be again cut in like manner. The use of the word 'saleable' is understood to exclude such underwoods as are to

RATING.
Property Liable.
1. Its kinds;

supply the land with estovers and fuel, or serve for shelter to young wood, or for ornament or other purposes of the estate. (App. A. p. 35. **43.**)

These words operate by construction to exempt, as before observed, all other kinds of wood and timber. Saleable underwoods were made liable to the tax, and other woods and timber exempted, probably in accordance with the rest of the policy of the Act of Elizabeth, which appears to have intended in all cases to charge the occupiers of property, and to exempt the interests of the owners. Saleable underwoods were almost invariably farmed out, while wood and timber was reserved by the landowner. It seems to have been thought that the tax could be laid on the occupier without affecting the owner. Although this conclusion is not consistent with the more accurate views of modern times in relation to rent and taxation, a great variety of passages in the Reports show that such a belief did prevail extensively, and for a long period subsequent to the passing of the statute of Elizabeth.

—by implication.

The statute distinctly enumerated the preceding kinds of property as those in respect of which occupiers were to be taxed, but it also mentioned 'inhabitants, and parsons, and vicars,' as persons to be taxed, without at the same time giving any indication of the kinds of property in respect of which they were to be so taxed. It, therefore, became the business of the Courts of Law to discover and define this property. In the endeavour to evolve the description of the property thus liable by implication, the Courts were generally guided by two principles: first, that the property liable by implication was not identical with that made expressly liable; thus, an inhabitant as such was not to be taxed for ability derived from lands, houses, &c., but only the occupier: secondly, that the property liable by implication, although not identical, should be analogous with that liable expressly; thus, most of the properties liable expressly,—lands, houses, saleable underwoods and coal mines, are visible and locally situate within the parish, and productive of a profit; and the Courts therefore held that the property to be liable by implication should also be local and visible and productive of a profit. Generally, whatever failed of either of these requisites was not rateable. Thus, stock in trade was local, visible, and profitable, and therefore rateable: household furniture and money in hand was local and visible, but not profitable, therefore not rateable; or money out at interest was visible and profitable, but not locally within the parish, and therefore not rateable. (App. A. p. 29. **35**, **36**, **37**.)

There are, however, irreconcileable anomalies in principle in the decisions of the Courts. They hold, for instance, that the express mention of properties of one kind exempted others of the same kind not expressly mentioned; that the mention of saleable underwoods exempted both in an occupier's and in an inhabitant's hands, all other underwoods, and going beyond that species of

RATING.
Property Liable.
1. Its kinds.

woods, exempted all other woods and timber whatsoever; and that the express mention of coal mines exempted every other mine, however like or however different in species. Nevertheless, with regard to tithe, their decisions must have been founded on very different principles of construction; for the parson's or vicar's tithe must, in its nature, be considered to be quite as like in kind to an appropriator's tithe, as unsaleable underwood, or as any other wood or timber is to saleable underwoods, or as a lead-mine is to a coal-mine. Yet the resemblance was not considered sufficient between the parson's tithe and tithe appropriate to exempt the former. Perhaps the anomaly may be explained by the fact, that, before the Statute, the parson always had contributed, from whence it was inferred that the Statute must have intended that the liability should be continued; but this inference is not of a kind which is usually allowed to prevail where a Statute is passed providing a new remedy, and would have equally served to perpetuate the liability of many other kinds of property, the holders of which contributed to support the poor before the 43rd of Elizabeth.

The properties which the Courts have held to be liable by implication from the terms of the Statute of Elizabeth are, first, property constituting the ability of the parson or vicar; secondly, the property constituting the ability of inhabitants.

1st. 'PROPERTY CONSTITUTING THE ABILITY OF THE PARSON OR VICAR.' The parson or vicar are mentioned among the persons liable to the rate. Their ability was recognized as being usually derived from their tithe, and the express mention of tithes impropriate and propriations of tithes was not used as an argument to exempt the parson's or vicar's tithe. It was, therefore, decided that *the tithes* of the parson or vicar are liable, and that any modus, composition, rent, or money paid in lieu of such tithes was also liable. The 6 & 7 Wm. IV. c. 71, makes the commutation rent-charge liable to all rates and taxes in the same manner as the tithe itself was before subject. (App. A. p. 36. **56**.)

PENSIONS payable to the parson or vicar are said to be subject to the rate. If this be so, the liability probably extends only to pensions payable in lieu of his tithe. (App. A. p. 36. **57**.)

It is also said that OBLATIONS AND OTHER OFFERINGS constituting the rectorial or vicarial dues are subject to the rate. (App. A, p. 36. **58**.) They do doubtless constitute an ability of the rector or vicar, but inasmuch as they are not a profit derived from property local and visible within the parish, to tax them seems to be contrary to the general principle put forward by the Courts, as determining the implied liability to Poor's Rate. This is, however, an objection to rating oblations, offerings, and dues, which would perhaps equally extend to the parson's tithe itself.

In practice, pensions are not rated, unless they be in lieu of tithe, and we believe that the oblations, offerings, fees, and dues, are never rated.

RATING.

Property Liable.

1. Its kinds.

2ndly. 'PROPERTY CONSTITUTING THE ABILITY OF INHABITANTS.' 'Inhabitants' being mentioned by the statute, but no property mentioned in respect of which they were to be rated, the Courts inferred an intention to tax them for some other kinds of property than those expressly mentioned in connexion with occupiers. The Courts having laid down as a principle that the property to be rated must be local, visible, and profitable, it followed that rents, franchises and easements, commons, ways, offices, pensions, advowsons, dignities and other incorporeal hereditaments were exempt as not being local and visible; the profits derived from mere labour, talent, or personal application, were exempt, these not being local and visible properties; profits enjoyed within a parish from money invested or lent at interest elsewhere, and therefore not a property locally within the parish, was exempt; and personal property in a person's own use, as household furniture, or money kept in the owner's hands, was exempt as not being productive of a profit.

The only property not excluded by these conditions, and for which, on the principles laid down, inhabitants could be held liable, was stock in trade.

STOCK IN TRADE therefore was held to be liable as the only remaining species of property which complied with the conditions of being local, visible, and profitable. (App. A, p. 36, **59**.)

It was not, however, till a century and a half after the passing of the Statute of Elizabeth, that the liability of inhabitants to be rated for personal property was agitated in the Courts of Law. Lord Mansfield, whose judgments on subjects of Poor Law were as admirable as those by which he gained so great a reputation in other matters, resolutely controverted the liability, insisting strongly that it was impossible to carry the liability into effect, and that if it were possible the practice would be highly impolitic. He described many of the anomalies which it would involve, and anticipated most of the practical difficulties which have since been experienced.* The liability was, however, finally established a

* The following are the expressions of the Judges in *Rex* v. *Ringwood*, Cowp. 326, decided in the year 1775:—

"In general, I believe, neither here nor in any other part of the kingdom is personal property taxed to the poor * * * the Justices at Sessions should have *amended* the rate if they thought this property rateable; and then, on attempting to do it, they would have discovered the wisdom of conforming to the practice which they expressly state in the case, of not rating it. If they had tried to have amended it, how would they have rated this stock? Are the hops and the malt and the boiler to be rated at so much for each? Or is the trader to be rated for the gross sum which his whole stock would sell for? If the Justices had considered they would have found out the sense of not rating it at all, especially when it appears that mankind has, as it were with one universal consent, refrained from rating it, the difficulties attending it are too great, and so the Justices would have found them. As to the authorities which have been cited they are very loose indeed, and even if they were less so, one would not pay them much deference, especially as they differ, and the rules they lay down have not been carried into execution for upwards of 100 years. They talk of *visible* property—what is *visible* property? I confess I do not know what is meant by visible property. If every visible thing should be de-

RATING. *Property Liable.* 1. Its kinds.

few years subsequently;—Lord Kenyon, in the year 1795, in *R.* v. *Mast*, treating it as a matter then beyond controversy.

But being rateable only as constituting the ability of an 'inhabitant,' it was consistently held that no person could be rated for stock in trade but an inhabitant actually resident, that is to say, 'a person habitually eating, drinking, and sleeping in the place, 'or whose family or [menial and personal] servants habitually 'eat, drink, and sleep there.' This conclusion, however consistent in reasoning, produces great practical inequalities in the burden of the tax. The opulent merchant or tradesman can always escape from it at pleasure by residing out of the parish where his stock is kept, and the saving of the rate on a large stock would often be more than sufficient to pay the expense of a country residence. But the poorer tradesman can never, or very rarely, have his residence at a distance from his place of business. It has been expressly held that a shipowner, whose ships were registered at Liverpool, and who had warehouses and a counting-house in the parish of Liverpool, but who resided in a different parish, was not rateable for his ships. It has also been held that where three partners carried on their business in premises at which their foreman and his family resided, the partners themselves residing in another parish, were not rateable. But the inequality is most clearly shown where persons of precisely the same condition, and having precisely the same interest in the same property, are some held to be liable and some exempt; as where of several partners one resided on the premises, he alone was rateable, as an inhabitant, for his share of the stock, and the others were held exempt as to their shares. (App. A, p. 37, **74**.)

There are further inequalities, as between one trade and another. Stock of one kind makes an inhabitant liable; stock of another kind does not; thus it is held that the stock in trade of common brewers and maltsters cannot be taxed, because, as is said by the Courts, it cannot be sufficiently ascertained.

But when the person is an inhabitant, and the stock is of a kind admitted to be rateable, a further set of difficulties arise in determining the extent to which it is 'profitable,' or creates an 'abi-

termined to come under that description, in that case a lease for years, a watch in a man's pocket would be rateable. Visible property is something local in the place where a man inhabits. But that does not decide what a man's personal property is. Consider how many tradesmen depend upon ostensible property only."

"As to the case in Lord *Raym.* 1280, the *only* question submitted to the Court was, whether the stock of a *farmer* was rateable to the poor; and they held it was not. But, according to the Report, they go on and say, the *stock* of an *artificer* is rateable. They had no case before them as to that point—therefore the judgment upon that question is extra-judicial. But supposing it were not, what do they mean by the visible stock of an artificer? Some artificers have a considerable stock in trade—some have only a little—others none at all. Shall the tools of a carpenter be called his stock in trade, and as such be rated. A tailor has no stock in trade—a butcher has none—a shoemaker has a great deal. Shall the tailor, whose profit is considerably greater than that of the shoemaker, be untaxed, and the shoemaker taxed?"

RATING.

Property Liable.

1. Its kinds.

lity' in the inhabitant. If the stock does not belong to the inhabitant—a case most frequent since the modern extension of commercial credit—he is not at all liable to be rated for it. If it is his own, and it is profitable, he is only rateable to that extent by which the profits exceed the expenses of himself and family and his debts and liabilities. It is, therefore, obvious that none but the most searching and stringent inquisition could ascertain the rateable value of stock in trade, for no such general criterion of rateable value is applicable to this property, as is provided by the standard of the letting value applicable to other kinds of property.

It would be impossible, and if it were possible it would be intolerable, that neighbours filling the office of churchwardens and overseers, constables, surveyors of highways, inspectors of lighting, and those other offices which involve the duty of laying rates upon stock in trade, should make such searching inquisitions as would be requisite for the purpose of giving effect to a liability so complicate in its details and difficult of estimation as this is. Thus a new set of inequalities are introduced through the facility by which the owners of stock in trade can defy or evade the valuation of the property. Accordingly, wherever the practice of rating stock in trade has prevailed, some arbitrary but of course very disputable sum has been adopted as the rateable value.

The practice of rating stock in trade never prevailed in the greater part of England and Wales. It was, with comparatively few exceptions, confined to the old clothing district of the south and west of England.* It gained ground just as the stock of the woolstaplers and clothiers increased, so as to make it an object with the farmers and other ratepayers, who still constituted a majority in their parishes, to bring so considerable a property within the rate. They succeeded by degrees, and there followed upon their success a more improvident practice in giving relief, than had ever prevailed before in England. It was in this district, and at this time, that relief by head-money had its origin,†

* All the cases in which the liability of stock in trade came in question in the Courts of Law, were from this district, with the exception of two, and these were amongst the latest, namely, R. v. Darlington, in 1796, and R. v. Ambleside in 1813. Those from the south of England, almost without exception, arose out of the attempt to rate stock in some branch of the clothing business, or to extend the rate to other stock in places where the rate was already laid on clothing stock. The case of R. *v.* Darlington showed, however, that in the parish of Darlington, in the county of Durham, the practice of rating stock in trade had prevailed at different intervals before the liability had been established, namely, for about six years after 1746, and again for about six years following 1788. It had undoubtedly prevailed much more continuously in some few other townships in the north of England. In R. v. Ambleside, the other northern case, there had never been a rate on stock in trade, and the appeal was on the ground that stock in trade was omitted from the rate.

† The first table issued by Justices of the Peace to determine the rate of allowance which they would require to be made by the overseers to each family according to the number of its members, was that promulgated at Speenhamland, near Newbury, in the year 1795.—See First Annual Report of the Poor Law Commissioners, 1835, p. 207.

RATING. *Property Liable.* 1. Its kinds.

and produced its most conspicuous effects in deteriorating the habits, and depreciating the wages of the agricultural labourer. When the practice of rating stock in trade was fully established in this district, the ancient staple trade rapidly declined there, and withdrew itself still more rapidly into the northern clothing districts, where no such burden was ever cast upon the trade. Whether this transfer of business was in any way aided by the imposition of the burden of the Poor Rates, County Rates, Highway Rates, and other rates upon stock in trade in the one district, and the exemption in the other, cannot perhaps now be distinctly proved; but it is undeniable that the operation must have been in effect a discriminating tax of very considerable amount against the trade of the one district, and therefore proportionally in favour of the trade of the other. In both districts the industry was of ancient growth; but hitherto the southern district had had the advantage; for the natural and acquired advantages of the two districts are in most respects such as rather to have favoured the southern district; the density of the population, the possession of an indigenous raw material of a good quality, the proximity to the ancient and important seats of commerce, London and Bristol, the possession of valuable coal-fields, the investment already effected of a capital greater than had ever, until very recently, been invested in any branch of English manufacture, unlimited resources available for new investments in the accumulated wealth of the district, above all, the possession of unequalled skill for which, and for a superior kind of produce, it even yet retains a character, were advantages apparently sufficient of themselves to have enabled the district to have maintained at least an equality with its rival in the north.

If it should not be clear upon general reasoning, that the liability of stock in trade should be permanently repealed, not only in respect to Poor's Rate, but all other local rates, it would remain an interesting and instructive subject of inquiry to ascertain what was the amount of burden imposed upon the clothing trade, whilst it still flourished in the south and west of England.

The Parochial Assessments' Act, in defining the net annual value of property, according to which all Poor's Rates were directed to be made, referred only to 'hereditaments,' and was entirely silent as to personal property. This fact appeared in some measure to countenance the very general practice in most parts of the country of omitting stock in trade, and the original inclination of the courts of law against the liability. For some time after the passing of the Act the practice was abandoned in those places where it had before prevailed. But upon the trial of the question, in the case of The Queen *v.* Lumsdaine (2 P. & D. 219), the Court of Queen's Bench decided that stock in trade was still liable to the rate, and the practice was about to be revived in consequence of the promulgation of the decision, and to be ex-

Property Liable.

1. Its kinds.

tended to districts in which it had never hitherto been known; but an Act was passed (3 & 4 Vic. c. 89) by which and by subsequent continuing Acts the liability of inhabitants to the Poor's Rate in respect of personal property is repealed until the 1st of October, 1843. The repeal is not extended expressly to any of the other rates, but it necessarily extends by implication to such of the local rates as are payable out of the Poor's Rate. We shall state more fully what appears to be the result of this partial repeal when the liability of inhabitants is referred to.—pp. 57-8.

Not to illustrate farther the confusion and inconsistency of the language used in the Statutes to describe the property which it was intended to make liable to these rates, but assuming, when the language of the Statutes is of doubtful or inconsistent tenor, that the prevailing practices, little as they are justifiable by that language, do nevertheless give effect to the real intentions of the Legislature, it may be stated that the general COUNTY RATE, and the COUNTY RATES FOR LUNATIC ASYLUMS, and FOR SHIRE HALLS, the HUNDRED RATE, the BOROUGH RATE, and the BOROUGH WATCH RATE extend precisely to the same property as the Poor's Rate does, and are equally affected by the present temporary exemption of stock in trade. That the CONSTABLES' RATE, the HIGHWAY RATES, the LIGHTING and WATCHING RATES, and the MILITIA RATE, apply to all the property that the Poor's Rate applies to, but also still include stock in trade; and that the RATE FOR GAOL FEES, the POLICE RATE, the BOROUGH RATE, (when not paid out of Poor's Rate), and the BOROUGH WATCH RATE, affect the same property as Poor's Rate, except in as far as it is doubtful whether the exemption of stock in trade does or does not apply to them.

—other rates on the general basis of the Poor's Rate.

The only exception to this statement is, that the exemption of churches, chapels, and places of religious worship is only applied in terms to the POOR'S RATE and the CHURCH RATE. It appears, however, to be extended to the HIGHWAY RATE, by the declaration that that rate shall be assessed on all property liable on the 31st August, 1835, to be rated to the Relief of the Poor. This exemption appears to be extended also to the LIGHTING AND WATCHING RATES, by the declaration that those rates shall apply to all property rateable to the relief of the Poor. But the exemption does not extend to the GAOL FEES RATE, the CONSTABLES' RATE, or the MILITIA RATE. It extends to the rates of the *County Rate series*, where those rates are payable out of the Poor's Rate; but when not so payable, there is nothing to make the exemptions applicable to them but the general presumption in favour of uniformity.

A peculiarity amongst the taxes on the basis of the Poor's Rate is still to be observed in respect to the HIGHWAY RATE; this rate is directed 'to be made, assessed, and levied upon all property

RATING. *Property Liable.* 1. Itskinds.

'which on the 31st August, 1835, was liable to be rated to the 'Relief of the Poor,' and it therefore applies to all the property described above, inclusive of stock in trade; but it is also enacted, that the HIGHWAY RATE shall extend to—

—'WOODS which, before the 31st August, 1835, had been 'usually rated to the Highways;'—woods, except saleable underwoods, being exempted from Poor's Rates.

—'MINES, before the same date usually rated to Highway 'Rate;' mines, except coal-mines, being exempt from Poor's Rate.

—'QUARRIES OF STONE, before the same date usually rated to 'the Highway Rates;' but quarries being liable to the Poor's Rate, this provision makes no difference between the Highway Rate and the Poor's Rate, except (though this is not very probable), that the express mention of quarries which had before been liable to the Highway Rate, might be held to exempt from the Highway Rate, by implication, all quarries which had not been before usually rated, whether omitted by usage, or not yet wrought, and thus to create a difference between the Highway Rate and the Poor's Rate.

—and 'OTHER HEREDITAMENTS before the same date usually 'rated to Highway Rate,' a declaration which, if there had been a usage to rate all heritable property to the Highway Rate, would have had a very sweeping effect upon property corporeal and incorporeal, but which we believe, from the absence of any such usage, is innocuous in the great majority of parishes, if not universally.

There is a great difference between the law and the practice as regards the taxes described above as *Miscellaneous Taxes*.

Miscellaneous Taxes;—the Church Rate;

The CHURCH RATES, the RATE FOR THE REPAIR OF NEW CHURCHES, and the BURIAL GROUND RATE—all apparently affect the same property. By law it would appear that the Church Rate affects different property according as it is laid for the purpose of repairing the fabric of the church 'in such things as con-'cern the freehold thereof,' or as it is laid for the purpose of providing ornaments, seats, bread and wine, and the things concerning the service of the church. In the first case the rate is said to be *real* and to charge the land, not the person, and persons having lands in the parish, but living out of it, may be charged with these expenses; in the second case it is said to be *personal*, upon the goods and not upon the land, and persons having land in the parish, but living out of it, are not to be charged with these expenses.

The kinds of property mentioned as liable to the rate are—

1st. The 'LANDS which parishioners have within the parish;' these terms are evidently wide enough to include not only all the corporeal property included by the Statute of Elizabeth as liable to Poor's Rate, but would also include all kinds of mines, and all kinds of wood and timber.

RATING.
Property Liable
1. Its kinds.

2ndly. It is further said that 'HOUSES and PROPERTY OF THAT 'DESCRIPTION,' are chargeable to the Church Rate; this probably refers to all those other erections and buildings besides houses which are rateable to the Poor's Rate either under the denomination of houses or as improvements of the land.

Places of worship, so far as they are exclusively devoted to religious worship, or used as Sunday-schools or infant-schools, or for charitable education, are expressly exempted from Church Rates.

3rdly. It is also said upon the ancient and revered authority of John of Athon and Lindewood that the Church Rate ought to be levied according to 'THE STOCK which the parishioners have 'within the parish.' But this doctrine is qualified by a modern authority which represents personalty and stock in trade as liable if the usage of the place sanction the imposition of a rate upon it.

4thly. 'TOLLS of a Market' appear to be liable to Church Rate, though they are not liable to Poor's Rate.

It thus appears not only that the kinds of property liable to the Church Rates differ from the kinds liable to Poor's Rate, but that one class of property is liable to Church Rate for expenses concerning the freehold, and another class for the expenses denominated personal.

In practice, however, we believe the attempt is now very rarely made to carry this law into effect. In the great majority of cases we believe that no distinction is ever made in the rates, whether the purposes for which they are raised are *real* or *personal*, but that both classes of expenses are provided for by one and the same rate imposed upon the same property, and professedly in the same proportion upon all property.

Furthermore, it appears that in the general practice no regard is paid to the kinds of property specifically liable to Church Rate, but that on the contrary the Church Rate (which being a common law rate, is in no wise affected by the statutory definition of property liable to Poor's Rate,) is in fact commonly, if not universally, laid upon the same property (excepting that of the incumbent) as the Poor's Rate, and upon none other.

—the Sewers' Rate;

The SEWERS' RATE is peculiar in regard to the kinds of property in respect of which it is imposed. The Commission issued under 23 Hen. VIII., c. 5, requires the Commissioners to tax, assess, charge and distrain the persons declared liable to the tax 'after the quantity of their LANDS, TENEMENTS, and RENTS.'

—'LANDS' in this Statute appears to include all improvements of lands, and therefore to comprehend not only all the corporeal subjects of occupation enumerated in the Statute of Elizabeth as liable to Poor's Rate, but also comprehends mines and woodlands exempted from Poor's Rates; mountainous and high lands, however, which cannot be overflowed or surrounded by waters, and

RATING. cannot, therefore, participate in the benefit of the expenditure of the rate, are held to be exempt.

Property Liable.
I. Its kinds.

—'TENEMENTS' would of course include not only corporeal real property, but all incorporeal tenements. Of these, Rents, Commons, and Profits of Fishing are expressly provided for. Tithes cannot be rated in the hands of a spiritual person or corporation without a custom (?) for the purpose; but tithes in the hands of a layman are said to be liable. Of Franchises, a ferry has been held to be liable; and of Easements, a free passage for boats on a river, when this is a private right, is said to be liable. The other species of incorporeal tenements appear to be exempt.

The other subjects of the rate described by the statute are—

—'RENTS.' These are said to include manorial quit-rents and rents of assize.

—'COMMON OF PASTURE after its quantity.' It is said Common of Turbary is liable, but it is difficult to understand upon what reason.

—'PROFIT OF FISHING.'

—'OTHER COMMODITIES in the place.' It is probable that this only means commodities derived from the kinds of property before enumerated. It is said that the use of a fair or market, if it produces an annual rental, is a ground of taxation.

—the General Sewers' Tax.

It appears to be intended that the GENERAL SEWERS' TAX is to be imposed upon the same kind of property as the Sewers' Rate.

Recapitulation.

It will thus be seen that the only distinct statutory descriptions of the property liable to taxation are the descriptions in the 43rd Elizabeth, relating to Poor's Rate, and that in the 23rd Henry VIII., relating to Sewers' Rate; and that the only tax now imposed upon property, according to common law, is the Church Rate. In law, the property liable to these three taxes differs widely: the Poor's Rate does not include mines generally, or woodlands generally, both of which are legally included by the other rates. On the other hand, Poor's Rate includes all kinds of tithe;—the Church Rate includes none; the Sewers' Rate includes only lay tithe. Further, the Poor's Rate did include, and the Church Rate does include, stock in trade, while the Sewers' Rate never extended to any kind of personal property. Again, the Poor's Rate and the Church Rate do not extend to rents, franchises, easements, commons, profits of fishing or other commodities, such as the profits of a fair, while the Sewers' Rate does extend to all of these.

On the other hand, great as are these differences in law, they are all neglected more or less in the general practice. The Church Rate is almost always imposed as the Poor's Rate. The Sewers' Rate is frequently so, and when it does not follow the Poor's Rate, it still, as far as we can learn, never adheres to the direc-

tions of the Statute. Some peculiarities of the High
affecting woods, mines, and other hereditaments usu
have been before pointed out; and the liability of sto
has been shown to be continued as to some rates and
as to others;—nevertheless, these legal differences hav
operation in practice. We believe, therefore, that it may be generally affirmed, *that the whole of our local taxation is imposed either by law, or by usages regardless of the law, on the same basis as the Poor's Rate.*

RATING. Proper Liat

2ndly.—As to the Principle on which it is Valued.

2. Principle valuation of perty.

The principle by which the Rateable Value of property is to be fixed is evidently of the utmost importance. For any system of taxation to be fair, it must bear a proportion both to the benefit conferred upon the tax-payers by the expenditure of the tax, and to the means which the person possesses of paying the tax. It is, however, in all cases found to involve insuperable practical difficulties to combine both these conditions in the imposition of a tax, and it seems most usual to assume that the benefit derived is in proportion to the ability to pay, or that the ability to pay is in proportion to the benefit derived. In most of the local taxes the ability to pay is the standard of taxation. In some, however, where the tax-payer has a definable share of the benefit of the expenditure, the proportion of the benefit enjoyed is made the standard of taxation. In other instances both principles are attempted to be combined; but in these instances the law is a dead letter.

In the Poor's Rate, and consequently in all the taxes enacted on that basis, the principle was adopted of imposing the tax according to the 'ability of the parishioners.'

The Church Rate is said formerly to have been made by common estimation. What principle this common estimation was founded on does not appear, but it was always undoubtedly in reference *ad statum et facultates*, that the burden was imposed. This criterion was by law to be corrected by reference to the application of the tax and the nature of the benefit derived from it; a resident parishioner being bound to contribute, in respect of his real and of his personal property, both to repair the fabric of the church and to provide for its service; while a non-resident occupier of land was by law only obliged to contribute in respect of his land, towards the expenses which concern the freehold of the church. Such was recognized as the principle of the imposition of this tax in law: in present practice, however, this principle is wholly disregarded, and it has been latterly held that a Church Rate made according to the Poor's Rate is just and prudent.

In the Lighting and Watching Rates both principles of rating, according to the ability to pay as well as according to the benefit enjoyed, are adopted, though very clumsily and inadequately.

RATI... g Liable. Pro... andard of ...eable value.

The value of the occupation is the basis of the rate; but the assessments are required to be made upon the occupiers of land, who are supposed to be less benefited by the lighting or watching, in the proportion of one-third of the rate laid on the occupiers of houses, buildings, and other property inclusive of tithes.

In the Sewers' Rate also, a mixture of both principles is visible. The Commissioners are to tax 'the persons through whose de-'faults said hurts and damages had happened; and who hath or 'holdeth any lands or tenements, or common of pasture, or profits 'of fishing; or hath or may have any hurt, loss, or disadvantage, 'by any manner of means in the said places, as well near to the 'said dangers, lets, and impediments, as inhabiting or dwelling 'thereabouts.' From this it appears that the taxation is to be governed by a regard as well to the benefit which tenants may obtain by the expenditure of the tax, as by the ability which they derive from their lands and other property, to contribute towards that expenditure. But the principle of valuation to the Sewers' Rate is attempted to be further defined by the Statute; unfortunately the attempt is expressed in terms which seem to involve at least two conflicting principles; persons liable are to be assessed and charged 'after the quantity of their lands and tenements and 'rents, by the number of acres and perches; after the rate of 'every person's portion, tenure, or profit.' The purpose of the Statute may have been no more than to lay the tax originally according to the quantity of the lands, and, when the total tax was so determined, then to divide that total sum between the various tenants as between a tenant at will and his landlord; a tenant for years and his lessor; a tenant for life, and the tenant in fee simple. If this were the purpose of the Statute, the assessment of the tax would be fixed solely by reference to the surface 'by the numbers of acres and perches,' without reference to the value or profitableness of the land; a principle, perhaps, more admissible in the case of a Sewer's Rate where the expenditure is more dependant on the extent of land to be drained than on its value, but still evidently objectionable as disregarding the respective abilities conferred by the operation on tenants of fertile or valuable property, and on the tenants of barren and unprofitable property. Judging, however, by what has apparently been the usual practice of Commissions of Sewers, and assuming that that practice fulfils the intention of the Statute, then the effect of the words cited above seems to have been, that the value or profitableness of the tenement was to determine the amount of tax laid upon it. Still, supposing this to be so far the right construction of the Statute, a difficulty, which seems insuperable, yet remains of combining the two considerations of acreage and profitableness.

The practice with regard to all the rates, though varying at different periods, appears to have been pretty generally alike at

RATING.

Property Liab

2. Standard of rateable value

—valuation of ands, &c.

the same period, especially as concerns the rates on the basis of the Poor's Rate and the Church Rate.

The earliest practice with regard to Poor's Rates was very rude, and with respect to the land, was undoubtedly governed to a considerable extent by regard to the *number of acres* in each occupier's possession. Still, however much regard was paid to quantity, the relative value must also have been at all times taken largely into consideration; for in every parish where there were houses or underwoods, or coal mines, to be taxed, the acreage must at all times have been felt to be an inapplicable standard of contribution. As the rate increased in amount, there is evidence of an increased care about the valuation of property. The *actual rent* paid by the occupier appears to have been most generally adopted before the reign of William the Third. The correctness of this practice was questioned, and the generality of its application denied in the tenth year of that reign, but, as far as can now be judged of by the law reports, upon very vague and insufficient grounds; for it was objected that respect ought to be had to the number of a man's family, and the Court agreed that this was proper matter of consideration, observing 'that rent is 'no standing rule; for circumstances may differ, and there ought 'to be regard *ad statum et facultates*.'* The practice, however, of valuing property by the actual rack-rent for which it was let, kept its ground with the qualification that the actual reserved rent was not to be regarded where it differed from the *actual present value* of the land; as where it had been reserved upon leases, the value of the property having changed in the interval; or where low rents had been reserved in consideration of premiums, or fines, or for other causes. In 1830, the Court of Queen's Bench, in the case of *Rex* v. *the Trustees of the Duke of Bridgewater*, stated that 'the principle of our decision is, that 'the same rule is to be applied to all occupiers, and that the rent, 'or sum at which the land will let, is the criterion of the value 'of the occupation.'

Rent

Having then fixed the *rent* as the standard of value, there was no need of any correction of this standard for the *tenant's taxes;* these being laid by law on the occupier, it was clear that the rent he would agree to pay, would be less in amount as these were greater. But not so with the *landlord's taxes;* these diminish the net value of the land to the owner, and to lay the rate on all the rent he receives, making no allowance for the taxes he may still be liable to pay out of this rent, in respect of the same property, is, to the extent of those taxes, to rate him not on his ability, but on his burdens, or his disability,—to tax him for a tax. No correction has, however, been in any case admitted for the landlord's direct taxes. It is true that this is not a matter

* 1 *Bott.* 119.

RATING.
Property Liable.
Standard of
taxable value.

of very great moment in England where direct taxes on landlords are inconsiderable in amount. Perhaps, also, through the Poor's Rate being laid on the occupier, the ground for an allowance to him for taxes laid on his landlord may have been made less apparent; for the identity of the tenant's and of the landlord's taxes, as equally a burden on rent, has not been always recognized.

But it was soon felt in another respect, that the rack-rent paid by the occupiers did not truly represent, in most cases, the value of the property. In mountain pastures, no portion of that rent would be required to be consumed for *repairs;* in arable and dairy farms, a considerable subtraction from the rent would be made; in the better class of dwelling-houses still more; and in the lowest class of buildings a yet larger amount. Instead of attempting to adjust these deductions to each tenement, so as to give to each quality of land, and to each quality of building, or other property, its appropriate share of advantage, the attempt was ordinarily made and was countenanced by the Courts in the year 1770 and from thenceforward, to fix an average for these deductions, for all the property of a species, as for all land at three-fourths of the yearly value, and for all houses one moiety of the yearly value,* making no allowance for the difference between one quality of land and another, or one quality of houses and another. This loose principle was asserted as late as the year 1830, when a rate was supported that had been laid upon two-thirds of the rent paid by the occupiers of farms, lands, tithes, and market tolls, after deducting taxes and charges of collection, and upon one-half of the like rent of houses, potworks, and every other description of building, and collieries, and coal mines. However, in the Trinity term following, in the same year, a principle of valuation was laid down, in terms very nearly equivalent to those subsequently adopted in the Parochial Assessments' Act. In *Rex* v. *Lower Mitton,*† it was said that the rate must be laid on a particular property 'according to the annual 'profit or value which the subject of occupation within the parish 'produces. This, in general, would be properly estimated at the 'rent which a tenant would give, he paying the Poor [and other] 'Rates, and the expenses of repairs, and the other annual expenses 'necessary for making the subject of occupation productive; and 'a further deduction should be allowed from that rent where the 'subject is of a perishable nature, towards the expense of renewing 'or reproducing it.'

The Parochial Assessments' Act, 6 & 7 Wm. IV., c. 96, s. 1, passed seven years afterwards, appears to have had for its purpose to effect a statutory declaration of all the principles of valuation thus developed, namely, that the standard of value is the reasonable rent, such rent being assumed to be a rent paid after the tenant

* *Rex* v. *Brograve,* 1 *Bott.* 125. † 9 *B. and C.* 810.

has paid the tenant's rates; and that there is then to be deducted an allowance for the average expense of the repair and reproduction of the property. The Act accordingly requires that 'every rate made for the relief of the Poor in England and Wales 'shall be made upon an estimate of the net annual value of the 'several hereditaments rated thereto; that is to say, *of the rent 'at which the same might reasonably be expected to let from 'year to year free from all usual tenant's rates and taxes, and 'tithe commutation rent-charge, if any, and deducting there-'from the probable annual cost of the repairs, insurance, and 'other expenses, if any, necessary to maintain them in a state 'to command such rent.*'

Giving to the equivocal terms of this Act the construction most consistent with the practice and doctrine established at the time of its passing, it very nearly prescribes the theoretical *net rent* as *the standard of rateable value.*

The defects, however, of this definition of 'net rent' are very considerable: the most substantial objection is, that the rent is required to be that 'at which the hereditaments might reasonably be expected to let for, *from year to year.*' Where properties require for the developement of their full productive value any considerable investment by the occupier, a letting from year to year only, would procure a rent very much below their actual value. What was no doubt intended by the Act was, that the estimated rent should be such as the hereditaments would, if let for the usual terms applicable to them, obtain *one year with another.* The next substantial objection is, that it allows *no deductions for landlord's taxes,* a defect which would be very apparent if all the taxes which really operate to diminish rent were imposed directly on the landlord, but which is not so salient to our observation in England, because the amount of the taxes imposed directly on landlords is comparatively small, being reduced, in fact, to the Land Tax.*

The defect in this Statute, which has been found most embarrassing in practice, arises from the awkward expression of the definition; it seems not possible to doubt that by 'Net Annual 'Value' of the hereditaments, must be understood the value which remains after the tenant's taxes and charges have been paid; such a rent, in fact, as a tenant would pay who bore the burden of the tenant's rates, and, therefore, entirely opposed to such a rent as a tenant would pay who took the hereditament *free of* tenant's rates and taxes. Unfortunately the definition expresses the latter rather than the former rent, namely, 'the rent at which 'the same hereditaments might reasonably be expected to let 'from year to year *free of all* tenant's rates and taxes, and tithe

* The Sewers' Rate is always allowed for in valuing to the Poor's Rate, as if it were the cost of repairs, viz. as a deduction from the gross value, being an "expense "necessary to maintain the hereditament in a state to command the rent."

RATING.

Property Liable.

Standard of rateable value.

'commutation rent-charge, if any.' It is certainly a common expression to say, 'a house or land free of rates and taxes;' and the grammatical construction of the phrase in the statute is evidently of that effect. On the contrary, there is, except in the Tithe Commutation Act,* perhaps, no example of the phrase, 'a rent free of rates and taxes.' Nevertheless we have felt ourselves obliged to recommend the adoption of such a construction of the Act as if its words were 'the *rent free of* all tenant's rates 'and taxes, and tithe commutation rent-charge, if any;' and this construction has, in practice, been almost universally admitted. We conceived that the intention of the Act could not be to rate that portion of rent which must be paid away in tenant's taxes, as that would be, in fact, to tax the residue for the charges which had once already been paid out of the rent. This consideration alone, however, would not be sufficient to justify our construction, inasmuch as the Act certainly admits of no allowance of 'land-'lord's taxes;' and as the incidence upon rent of all taxes laid in respect of the occupation of land, whether imposed as tenant's or as landlord's taxes, is undoubtedly the same, it might be certainly contended with reason that, whatever rule the Act applied to the landlord's taxes was equally to be applied to the tenant's taxes. But we considered that, doubtful as the construction of the words might be, so far as they relate to the 'tenant's rates and taxes,' there could be no doubt as to their meaning with relation to the 'tithe commutation rent-charge.' As this is rateable of itself, it could not be intended to rate its value twice over, which would be the effect if the Act were construed as defining the net annual value to be the rent obtainable for a hereditament let '*free of* 'taxes and of tithe commutation rent-charge.' Concluding, therefore, that the tithe commutation rent-charge was to be allowed for, we concluded also that the 'tenant's rates and taxes,' involved in the same sentence by the same grammatical construction, were also to be allowed for.

Some difficulty of construction in like manner applies to the words 'and deducting therefrom the probable annual cost of 'repairs, &c.;' for reasons similar to the above, we considered the word, 'therefrom,' must relate to 'the rent,' and to no other antecedent in the sentence.

—valuation of personalty.

As the purpose announced by the Act was 'to establish one 'uniform mode of rating for the Relief of the Poor throughout 'England and Wales,' and as the liability of stock in trade was, at the time the Act passed, in full legal force, it may be considered as an omission in the Act that no rule was laid down for its valuation. The want of uniformity in the valuation of stock in trade was far more striking than in other property. Some of the various

* The Tithe Commutation Act, 6 & 7 Wm. IV. c. 71, s. 37, uses the words "the *rent* or composition being paid *free* from all rates, charges, and assessments."

methods used and supported for estimating its value are so arbitrary as almost to appear capricious; thus, where 'the mode used 'for assessing all persons in the parish having and using stock and 'personal estate, or having money out at interest, was to assess all 'such persons respectively at and after the rate of one-twentieth 'part of such stock and personal estate or money out at interest, 'and to value the interest of such twentieth part at and after the 'rate of 4 per cent. per annum, and then to rate and assess one 'moiety of such twentieth part equally in that proportion, or as 'near thereto as may be,' the rate was held by Lord Mansfield and the rest of the Court a good and equal rate.* It was also commonly thought that a rate on personal property would be supported where the valuation was made in this manner—the whole value of the property being ascertained, one-twentieth part of this was to be taken, then 4 or 5 per cent. interest being assumed to be the annual profit of this one-twentieth part, the rate was to be laid upon the total interest according to the same poundage as was applied to other property. If this be examined, it will be seen that such a rule, where the interest assumed was 4 per cent., was the same as rating personal property upon one five-hundredth part of its present total value; or where the interest assumed was 5 per cent., it was equivalent to rating upon one four-hundredth part of its present total value. A rule very different in principle to the foregoing was much adopted in the towns in the West of England, viz., that of adding to the rental of the premises some per centage, usually within the extremes of $1\frac{1}{2}$ and of 4 per cent. upon the rental or rateable value of the shop, or factory, or warehouse, or other premises occupied. This rule, however, did not apply to money out at interest, when that was rated.

The subsequent temporary exemption of personal property from the Poor's Rate makes the want of a provision in the Parochial Assessments Act for its valuation for the present immaterial, inasmuch as the principle of valuation laid down by that Act extends only to the Poor's Rate, and would, therefore, not govern the valuation of personal property for the other rates to which it is still liable.

The above observations, applicable to Poor's Rates, apply equally to the rates directly paid out of the Poor's Rates; namely, to the general County Rate, and the County Rates for Lunatic Asylums and for Shire Halls, to the Hundred Rate, and to the Borough Rate. Their application is doubtful in regard to those rates the incidence of which is not clearly identified with the incidence of the Poor's Rate; namely, the Rate for Gaol Fees, and the Police and Borough Rates, when not paid out of the Poor's Rate, and the Borough Watch Rate; while, as regards the Constables' Rate, the Highway Rate, the Lighting and Watching Rate, and the Militia Rate, the rule of valuation laid down by the

* *Rex v. Hardy*, 3 *Cowp.* 579.

RATING. *Property Liable.* Standard of rateable value.

Parochial Assessments Act does not apply to all, except in so far as it is identical with the rules of valuation established before it was passed, and independently of its provisions. As these latter rates still apply to stock in trade and other personal property, the difficulties as to the valuation of this kind of property would still remain in full operation, if in laying these rates any attention were ever paid to what the law requires.

Practice of under-valuing property.

The tendency to under-rate the value of property is always great. Every person liable to the tax has more reasonable ground to expect success in the attempt to escape from a portion of the tax himself than in the attempt to increase directly the portion to be contributed by others, and all the efforts of the rate-payers are accordingly directed to the reducing of the rates in their own cases; on their side the officers imposing the tax seek to conciliate the whole mass of tax-payers, and especially such individuals amongst them as threaten litigation, by lowering the portion of each.

Thus, whatever may have been at any time, according to law, the standard of rateable value, there is no doubt that the assessed value was always considerably below it; but since the year 1739 there has been a peculiar motive for reducing the valuation to the Poor's Rate, and, through the connexion in practice of all the rates with the Poor's Rate, to reduce the valuation of property to the whole of our local taxes. From that time the County Rate began to be assessed on parishes in proportion to the total value of the rateable property in each parish respectively. So far as this principle of assessment was carried out, to that extent was an obvious motive given to every parish to adopt a contrivance by which, while the proportions between the several contributors to the Poor's Rate within the parish should be undisturbed, the proportion of the whole parish, as compared with all other parishes in the county, should be as much as possible diminished. This object was in appearance easily to be attained. The value of all the property in the parish was estimated in some of the ways before described, and then the whole was reduced by some common proportion. About the middle of the last century the value in the rate was usually admitted to be but a half of the true value, but was in reality even much less than that; inasmuch as the original estimate of the value was always much below the truth. The admitted value, whatever that was, was invariably reduced in making the rate in some proportion which varied from one-third to three-fourths.* Those parishes which adopted the lowest propor-

* These proportions ran universally through the rate, and must not be confounded with those different proportions adopted for different kinds of property within the same parish, as three-fourths for land, one moiety for houses, and a twentieth part of the annual interest for personalty; proportions adopted, as has been before described, to compensate for those varying burdens upon different classes of property which made the rack rent an unsuitable standard of value. This practice originated at a much earlier time than the one we are now describing.

tion of course evaded the County Rate to the greatest extent; but as all the parishes gradually adopted the practice in a greater or less degree, none of them succeeded to the full extent of the factitious reduction of their value.

It is true that for a long period after 1739 the County Rate was not generally, nor even in a majority of counties, assessed upon parishes in proportion to their respective aggregate valuations. Still the practice of parishes under-valuing their property gained ground everywhere; perhaps because it was always known to be in the power of the justices at Quarter Sessions at any time to begin to charge the parishes to the County Rate, according to their respective assessments to the Poor's Rate. At length, in 1815, the motive was extended to all parishes and places within counties, the 55 Geo. III., c. 51, expressly prescribing the valuation to the Poor's Rate as a basis in ordinary cases for the assessment to the County Rate. But though the motive to under-value their property was thus obviously strengthened, its operation was also checked by the same Act, which gave the justices power, where discontented with the Poor's Rate valuation, to make a searching inquiry into its correctness, and in certain cases to appoint and pay valuers. From that time to the passing of the Parochial Assessments Act, the 19th of August, 1836, the practice of under-valuing the entire parish seems, on the whole, not to have either increased or decreased.

Operation of t Parochial Ass ments Act;

The Parochial Assessments Act has only partially reformed this practice. The valuations ordered to be made under the Act, up to the 1st of October, 1842, extend only to 4,444 parishes and townships out of 15,635. Of these only a part, though by far the largest part, have been made by paid professional valuers. Even in these instances many of the best and most scrupulous valuers admit, that for the sake of avoiding dissatisfaction and appeals, and of anticipating future depreciations of property, they have kept their valuations 10, 15, or even 20 per cent. below what the amount would be upon a strict estimate. In the rest of the 4,444 parishes or townships in which any valuations have been made, the overseers, or sometimes a committee of the rate-payers have professed, and sometimes really attempted a re-valuation: but we regret to say that these latter valuations have not in any instance appeared to us to be satisfactory, and in some cases they have been more objectionable than the valuations before acted on. In the remaining 11,190 parishes and townships of England and Wales, no new valuations have been made under the Act.

—increased i equalities;

It is obvious that to the extent to which *bonâ fide* new valuations had been made in any parishes, and acted upon, those parishes are liable to be prejudiced by the continuance in other parishes of the old valuations, or the adoption of new valuations below the just amount. The Justices of the Peace at Quarter Sessions have not, it is true, as yet generally adopted the new valuations as the

RATING.
Property Liable.
2. Standard of rateable value.

basis of the assessment of parishes to the County and other aggregate Rates; but it is open to them to do so at any time, and to the extent to which they have as yet done so the inequality is manifest. The injustice is aggravated by the constantly increasing numbers and burden of the rates made for aggregated districts on the same basis as the County Rate. Since the year 1815, when the valuation to the Poor's Rate was distinctly fixed as the ground of valuation for the County Rate, there have been added upon the same basis, the County Rate for Lunatic Asylums, the County Rate for Shire Halls, &c., the very important Rate for County and District Constables, the Borough Rate, and the Borough Watch Rate; and the Hundred Rate has, within the same period, been re-modelled and settled on the same basis. Quite recently the Property Tax Act has added another inducement to parishes to under-rate their property to the Poor's Rate, this being made in most cases the basis of the assessor's estimate of the rack rent of real property for the purposes of the Property Tax.

—obstacles to correction;

It will thus be seen how important it is that the Poor's Rate should be universally laid upon the full value. The provisions of the Parochial Assessments Act are quite inadequate for the attainment of this result. In the first place, it only requires that the Poor's Rate shall be made *on an estimate of the net annual value* defined by the Act. Rates always have been made on an estimate of the net annual value, but the net annual value being ascertained, the rate was imposed in some arbitrary proportion to it, as upon one-half, two-thirds, and so forth. It is not clear that the terms of the Act require any more than that the net annual value should be the ultimate basis of the rate, and there is nothing distinctly prohibiting the making of the rate on any proportion to that net annual value that the officers may please to adopt. The Act should have declared distinctly, if such was its purpose, that *the net annual value of all property should be its rateable value.*

The general practice has, however, hitherto been to regard the net annual value as the rateable value.

The main obstacle at present to a general equal valuation is, that the Act does not make it compulsory. A new valuation under the Parochial Assessments Act can only be obtained where the Overseers of the parish, or the Guardians of the Union themselves apply for it. It is not to be expected, where the property in a parish is generally undervalued in a tolerably equal proportion, that the officers of that parish will seek to set aside a valuation by which they are gainers. It seems to be plainly inconsistent, where a valuation is required in order to compel a parish to do reluctant justice to its neighbours, to leave to that parish the option to adopt or refuse such a valuation.

When a valuation has once been fairly made and adopted, the improvements and the deteriorations of different properties are daily rendering it less and less accurate. It is the duty of the

officers making each successive rate to insert all new property, to increase the valuation of all that is improved, to decrease the valuation of all that is deteriorated. That this is their duty cannot be denied, but it is used in a multitude of instances as a pretext for departing from valuations where there is no just ground for doing so, or to a greater extent than is just. It therefore constitutes another defect of the present law that there is no security for maintaining a just valuation when once made, against the operation of the motives of the parishioners to recede from it, and that there is no provision for the constant revision and correction of valuations independently of the will of the parish itself and its officers.

RATING.
Property Liab
Standard of
rateable value.

As regards other rates besides the Poor's Rate, it is material to observe that in the northern counties the County Rates and other aggregate rates are paid out of the Constables' Rate; and that this latter rate is neither affected by the estimate of 'net annual value,' defined by the Parochial Assessments Act, nor its imposition facilitated by the power given by that Act for a new valuation.

Defects in valu
tion to rates ot
than Poor's Ra

Of the other local rates of *the Poor's Rate series* and *the miscellaneous taxes*, it is enough to observe that in practice all the irregularities in the valuation to the Poor's Rate are adopted by them, while the amendments and facilities provided by the Parochial Assessments Act are legally inapplicable to them.

—of the Poor'
Rate series;

Indeed, besides the Poor's Rate, there are only two other rates in respect of which valuations are expressly authorized, namely, the County Rate and Sewers' Rate.

The County Rate is to be assessed upon parishes 'rateably and 'equally according to the full and fair annual value of the mes-'suages, lands, tenements, and hereditaments liable, or which 'might be liable, to be rated to the relief of the poor.' We have described the way in which parishes have attempted to evade their fair share of contribution to the county and other aggregate rates by undervaluing the whole of their respective properties according to some arbitrary proportion. In order to counteract this attempt, as well as to enable the justices to correct inequalities between parishes on appeal, the justices at Quarter Sessions are enabled, by the 55 Geo. III., c. 51, to call for returns from high constables, petty constables, churchwardens, and overseers, and from assessors and collectors of public rates and taxes. The Quarter Sessions can then direct the justices within their respective divisions to receive these returns on oath, and to examine the persons making them upon oath, and to report proceedings to Quarter Sessions. In case of default in making the returns the justices may employ persons specially to ascertain the annual value of property in any parish. These powers have been frequently resorted to, but as far as we have learned, with no great

—of the Coun
Rates;

RATING.
Property Liable.
2. Standard of rateable value.

success, inasmuch as the annual officers, chiefly the overseers, whom the justices have to rely upon, are persons not only interested in maintaining the existing valuation of their parish, but are also generally incompetent to correct that valuation, a task which requires professional skill and a freedom from personal interest. The result practically amounts to this, that where the justices have gone through the process pointed out by the 55 Geo. III., c. 51, the total valuation of the county has indeed usually been much increased, and therefore some approximation has been made to a fairer valuation; but in no case, that we have heard of, has the result been considered satisfactory by the justices themselves. In other cases, the justices have made the attempt, but have found their powers insufficient to surmount the difficulties which they encountered, and have consequently abandoned the task before its completion. In a considerable number of counties no attempt of the kind has been made.

There are accordingly still found a great variety in the practices by which the relative proportions of the parishes contributing to the County Rate are ascertained; many of the proportions being determined by scales or valuations which have been in use for periods much exceeding 100 years, during which great changes have occurred in different parts of the same county, and a vast extent of new property has been created in many such parts, liable to the tax by law, but which is often wholly disregarded in the actual assessment.

In some counties a valuation has been made in the manner just before described at some period since the year 1815, under the powers of the 55 Geo. III., c. 51.

In some other counties the contribution to the Land Tax serves as the scale of the proportionate contribution. In these cases the proportion has been unchanged since the year 1792, notwithstanding the subsequent alterations in the value of property.

In other counties the valuation to the Property Tax made in the years 1814-15 determines the scale of contribution.

In other counties some ancient scale, of which the origin is unknown to the respective clerks of the peace, determines the proportion.

In other counties the nominal valuation to the Poor's Rate, uncorrected by the application of the powers of 55 Geo. III., c. 51, and made in some counties in or very early after the year 1739, and in other counties at various periods between that date and the present time, serves as the basis of the contribution to the County Rate.—(For particulars see note * in the two following pages.)

All these various practices are alike complained of as unequal in the counties in which they are adopted. Yet the plan of contribution is in most cases so indefinite that the power of appeal given to each parish is quite inoperative for its protection, there

being no admitted standard to which a parish could refer, in order to show the injustice of its own assessment, in comparison

* *Note to the preceding page.* The following Abstract shows the state of the valuations for the County Rate in some of the counties in England and Wales as they existed in 1832-34:—

ABSTRACT from REPORTS of the SELECT COMMITTEE of the HOUSE of LORDS on "Charges of the County Rates in England and Wales," ordered to be printed 24th June, 1834, and from the REPORT of the SELECT COMMITTEE of the HOUSE of COMMONS on "County Rates," ordered to be printed 31st July, 1834.

Counties.	Date of Valuation.	Principle on which Valuation is reported to have been made.		
Bedford	1739	No valuation made under the 55 Geo. III., c. 51. The principle of the existing scale not known to the Clerks of the Peace, and cannot be ascertained by them.		
Brecon	not known.	ditto	ditto	
Cardigan	1748	ditto	ditto	
Carmarthen	About 30 years since.	ditto	ditto	
Cornwall	not known.	ditto	ditto	
Dorset	1740	ditto	ditto	
Essex	none.	ditto	ditto	
Flint	1769	ditto	ditto†	
Huntingdon	not known.	ditto	ditto	
Merioneth	,,	ditto	ditto	
Norfolk	,,	ditto	ditto	
Northampton	1732	ditto	ditto	
Pembroke	not known.	ditto	ditto	
Radnor	,,	ditto	ditto	
Rutland	when land-tax first imposed.	ditto	ditto	
Suffolk	not stated.	ditto	ditto	
Chester	1821	Principle not stated; but probably valued under the 55 Geo. III., c. 51.		
Berks	1822	By Property Tax Assessment	(1815).	
Bucks	1814	ditto	ditto	(1814).
Gloucester	1816	ditto	ditto	
Hertford	1823	ditto	ditto	
Leicester	1805	ditto	ditto	(1804).
Lincoln, *parts of Kesteven*	1821	ditto	ditto	
Monmouth	1827	ditto	ditto	(1815).
Nottingham	1818	ditto	ditto	(1815).
Oxford	1813	ditto	ditto	(1813).
Somerset	1818	By Property Tax Assessment.		
Sussex, *Western Division*	1816	ditto	ditto	
Warwick	1816	ditto	ditto	
York, *North Riding*	1825	ditto	ditto	
Wilts	no valuation has been made.	ditto	ditto	
Derby	1816	By Property Tax Returns, Schedule A.‡		
Hants	1819	On two-thirds of amount assessed to Property Tax.		

† Many thousand acres of land since enclosed, but none of it charged for.

‡ Previous to the year 1816 the rates were not made upon any valuation of property, but were collected by the ancient mode of so much a trained soldier (each Hundred being rated with a certain number), which served to show the proportions of the County Rate to be paid by each Hundred.—(*Appendix to Report of Select Committee of the House of Lords*, 1834, p. 279.)

RATING. *Property Liable.* 2. Standard of rateable value.

with other parishes. Nothing would enable a parish to show successfully the inequality existing between itself and another parish, but a complete valuation of both the parishes in question, an operation, the cost of which would be such as effectually to prevent the attempt.

It is obvious that this inequality exists entirely through the defective valuation to the Poor's Rate. In other words, the correction of the valuation to the Poor's Rate would be the most effective, indeed the only practicable correction of the inequalities in the imposition of the burden of all the taxes of the County Rate series.

—of the Sewers' Rate.

The only rate for which a separate valuation is authorized is the Sewers' Rate. 'Any Court of Sewers may at its discretion 'decree and order the payment of all costs, charges, and expenses

Abstract, &c.—*continued.*

Counties.	Date of Valuation.	Principle on which Valuation is reported to have been made.
Hereford	1819	On three-fourths of amount assessed to Property Tax.
York, *East Riding*	1816	By Property Tax Assessment, with a deduction of 1*s.* 5*d.* (*qu.* 1-5th) therefrom, and the rate laid calculated at 1*d.* in the pound on four-fifths.
Anglesey	1832	On Rack Rent.
Denbigh	not known.	ditto
Kent	1807	ditto
Lancaster	1829	ditto
Westmoreland	1832	On Rack Rent paid by farmers, and test (?) to those lands in possession of owners, deducting one-third from value of houses, and one-half from mill property.
Durham	1826	On annual value (probably ascertained under the 55 Geo. III., c. 51).
Glamorgan	,,	ditto ditto
Lincoln, *parts of Holland*	1818	ditto ditto
——— *parts of Lindsey*	1822	ditto ditto
Middlesex	1833	ditto ditto
Montgomery	1827	ditto ditto
Northumberland	1832	ditto ditto
Stafford	1816	ditto ditto
Surrey	1827	ditto ditto
Carnarvon	1829	ditto ditto
Cambridge	1827	On actual value of Property.
Devon	1816	ditto ditto
Cumberland	1810	Poor's Rates, and examination of Overseers as to actual value of Properties rated.
Sussex, *Eastern Division*	1831	Annual value of all Property assessed to the Poor's Rate, or liable to be so.
Worcester	1833	From Returns of Overseers, altered by Magistrates where insufficient.
York, *West Riding*	1816	On an average of Poor's Rate and Property Tax Returns, deducting one-fourth therefrom.
Salop	1740	Under the 12 Geo. II., c. 29.

'incurred in surveying, measuring, planning, and valuing the lands 'and hereditaments, or otherwise, preparatory to the making of 'any rate, taxes, or scots.'

RATING. *Property Liable.* 2. Standard of rateable value.

We are not informed to what extent this power has been exercised. The valuation required for the imposition of the Sewers' Rate very much exceeds in complexity and delicacy the valuation required for any other tax. In all the cases which we have inquired into, it has been dispensed with, and recourse has been had to the valuation to the Poor's Rate, or to some other public tax.

Persons liable to Local Taxes.

THE PERSONS LIABLE to local taxes can best be considered in two chief classes. 1st. Those liable to the taxes of the Poor's Rate and of the County Rate series (page 7). 2nd. Those liable to the miscellaneous taxes (page 7).

Persons liable.

1st. The framers of the statutes without doubt intended that the persons liable to the local taxes of both these classes should be the same as had already been made liable to the Poor's Rate, but the terms of the statutes in this respect are to an extraordinary extent confused, or inadequate, or redundant. Sometimes the persons liable to be taxed are only to be inferred from words more or less accurately descriptive of the property liable to the Poor's Rate. Sometimes only one class of persons liable to the Poor's Rate is mentioned, as 'inhabitants,' omitting parsons, vicars, and occupiers. Sometimes 'occupiers' are mentioned alone, omitting inhabitants, parsons, and vicars. Or 'owners and occupiers of land' are mentioned, omitting inhabitants, parsons, and vicars, and the occupiers of all property other than land, at the same time inserting the class of 'owners,' who are it is true liable for houses, not originally, however, but only by substitution; and are never, even by substitution, made liable to these rates for land. For these and other examples, we refer to the summaries of the respective rates in Appendix (A.), and we proceed on the assumption that the universal practice of laying these rates on the same persons who are liable to Poor's Rates represents correctly the real intention of the law.

—1. to taxes of the Poor's Rate and of the County Rate series;

The persons made liable to Poor's Rates by the 43rd Elizabeth are, 1st. INHABITANTS of the Parish. 2nd. The PARSON or VICAR. 3rd. The OCCUPIERS of Land, and the other species of property expressly enumerated.

As regards 'INHABITANTS,' it was long before the effect of the law was settled. We have before pointed out, in speaking of stock in trade and other personal property, the definition given to inhabitants, and the restriction of their liability, as inhabitants, to personal property alone.

Inhabitants;

Supposing that the intention of the law was, that all the taxes of *the Poor's Rate series* and of *the County Rate series* were to be imposed upon the same property and persons, then inhabitants

RATING. *Persons Liable.*

were liable to all these rates in respect of stock in trade and other personalty. Since the 3 & 4 Vic., c. 89, the liability of inhabitants to the Poor's Rate in respect of personal property has been and remains repealed until the 1st October, 1843. But the statutes repealing this liability apply to no other rate but the Poor's Rate. The legal result is, that the exemption is extended by implication to such of the rates as are to be paid out of the Poor's Rate, namely, the County Rate in parishes and townships, the Hundred Rate is parishes and townships, the Borough Rate in parishes and townships, and the Borough Watch Rate in parishes and townships; while, with regard to all these rates in extra-parochial places, and to all the other rates wherever levied, the liability of inhabitants to be rated for their stock in trade still continues, or can only be held to be repealed by a construction of the statutes at variance with their language.

In practice, however, since the exemption of inhabitants from the Poor's Rate, they are, we believe, universally omitted in all the other taxes, as indeed they generally were before.

—Parson or Vicar;

'THE PARSON or VICAR' was held to be liable by implication for his tithe. He is since made liable expressly for the Tithe Commutation Rent Charge, in the same manner as he was before for the tithe itself. He has, either directly or through the lessees of the tithe, been universally assessed to all the taxes of *the Poor's Rate series* and *the County Rate series*. Parsons and vicars have been said to be liable also for pensions payable to them; but it is probable that this only refers to pensions paid in lieu of their tithes. They have also been said to be liable with respect to oblations and other offerings which constitute the rectorial or vicarial dues; but to rate such income is inconsistent with the general principles of rating, at least to the Poor's Rate, which is, that the rate should be laid in respect of property 'local' and 'visible within the parish.' In our experience we have not met with a case in which a rate has been made on a parson or vicar distinctly for this kind of income.

—occupiers;

'OCCUPIERS' are liable for the several kinds of property expressly enumerated by the statute of Elizabeth, namely, 'Lands, 'houses, tithes impropriate, propriations of tithes, coal mines, and 'saleable underwoods.' The occupier is the person who has the present use, enjoyment, or possession of the property. In the common acceptation of the term there can be no occupier of an incorporeal hereditament, such as tithes, but the use in the statute of the term 'occupiers of tithes impropriate and propriations of tithes' has been applied to the persons who are immediately entitled to receive those tithes, or the rent, or composition, or other consideration paid in lieu of them.

The observations before made upon the kinds of property in respect of which occupiers are liable, serve to define the kind of occupation which is held to create a liability to the rate.

RATING.

Persons Liable.

—difficulties in rating occupiers.

The doctrine, justified by the terms of the statute, that the tax in respect of the property is a *personal* burden upon *the person in occupation*, involves in certain classes of cases some considerable inconvenience.

The first inconvenience is where the property is occupied in very small portions, in which case it is difficult to adjust the amount of the rate fairly; and usually, from the poverty of the occupier, very difficult or impossible to levy it. This inconvenience appears in an aggravated shape where a single property, such as a dwelling-house, is tenanted by a number of occupiers, no one of whom can be charged for the whole. Another form of this inconvenience is where the whole of a property is occupied by tenants in common or in coparcenery, in which case it is often difficult to levy the rates on account of the impossibility of distinguishing the chattels of the several parties so as to make the distress only on the goods of the parties in arrear.

The second kind of inconvenience, even more difficult to deal with than the first, is where the occupiers are a class of persons commonly changing their residence within the periods for which it is in modern times found to be convenient to lay the rate. Weekly tenants, for instance, never can be made liable to the rate.

The amount of property which thus escapes from this tax, and consequently from all the other taxes on the same basis, through these real difficulties, and through the false pretexts to which they afford a colour, is very considerable. Cases sometimes occur in which the loss incurred by the omission to rate the occupier, or to collect the rate, amounts to a fourth part of the whole of the taxes; in populous parishes, the loss from this cause is seldom less than a tenth part of the whole assessment. The loss from the removal of occupiers during the currency of the rates is most considerable in towns, where it is frequently found to range between 3 and 4 per cent.

Of course what is lost in respect of one kind of property must be levied upon another, and becomes a double burden on that property the occupiers of which can be made to pay. The owners of small properties in towns universally understand the interest they have in making the tenancy such that the rate cannot be with any degree of regularity obtained from the occupiers, for the uncertainty in obtaining the rate generally begets a practice of omitting the property altogether, or at least of not enforcing the liability with strictness. The practical exemption from rates, which is more or less the result, is immediately converted into a means of obtaining an increase of rent, equivalent to the exemption, a process which in fact amounts to this, that the real tax-payers in respect of one class of property pay, besides their own proper contributions, an additional tax, for the purpose of adding exactly the amount of that additional tax to the rent taken by the owners of the other class of property.

RATING.
Persons Liable.

Three partial attempts, in different forms, have been made to deal with these evils.

—attempts to meet these difficulties;
—change of tenancy;

To provide against loss by the *change of tenancy*, occurring during the period to which a rate applies, and to give to the parish the benefit of the contribution of any tenant coming into property unoccupied at the time of making the rate, the 7 Geo. II., c. 38, makes every person removing from a property, and every person coming into or occupying property, liable to pay the current rate in proportion to the time that each such person has occupied the property.

This provision is not much known, and where known is rarely acted upon, except where the property is of considerable importance; even its legal application in the case of a change of incumbency of a parson or vicar, or of the cessation or commencement of inhabitancy of persons liable for stock in trade or other personal property, is very questionable.

—poverty of the occupier.

To meet the case of *poverty of the occupiers* disabling them from paying the rate, a very comprehensive provision is made by the 54 Geo. III., c. 170. Upon the application of the party to be excused, and upon proof by him of his inability through poverty to pay, and upon the consent of the overseers or other persons having the management of the poor, that such poor person may be excused, the Act enables any two justices to direct that the person be excused from payment of any local rate or cess whatsoever, and to strike out his name from such rate or cess. The enactment is universally applicable to local rates made in places maintaining their poor; it is, probably through an oversight in the statute, inapplicable to any of the local rates when made in places not maintaining their poor.

This provision is made use of in ways which we believe were never contemplated by the legislature, and which we regard as great abuses of the powers of the statute. In the first place, instead of an actual application by the party seeking to be excused, a mere written application, drawn up by the overseer or collector, and signed, or purporting only to be signed, by a number of persons, in many cases amounting to several hundreds, is commonly admitted by justices as sufficient application by the party seeking to be excused: next, the proof of poverty by the parties seeking to be excused, is dispensed with in the same summary manner, and is considered to be supplied by the mere admission, without oath or examination, of the overseer or collector or some other officer, that he believes the people who have signed or are supposed to have signed the application to be too poor to pay; again, the consent of overseers is in the same summary manner implied, as of course involved in his conduct of the proceeding. Thus an overseer, or other officer, by a mere formality, the mere writing and production before two justices of a list of names, procures the wholesale exemption from the rate of persons who are thereby re-

lieved from all the checks involved in the condition of making a personal application and of giving proof of their poverty. The overseer enacts the parts of the applicant for excusal, and of the witness to poverty, in addition to his own appropriate part in consenting to the excusal.

The pretext used in justification of this practice is, that it saves trouble, but especially that it saves the expense in justices' clerks fees; one fee upon one collective application, and one collective order, serving instead of a multitude of fees upon a multitude of personal applications and individual orders. The excuse is itself founded on another irregularity, namely, the practice of the parish paying these fees, instead of the applicant, who is legally liable to pay them.

Another practice, not so much an abuse of this provision as a misapprehension, or neglect, or defiance of their duty, by overseers, is that of wholly omitting persons whom the overseers consider or allege to be poor, from the rate as originally made. This practice, which is a very common one, of course dispenses even with the formality of an application to justices in the summary manner above described. The amount of property thus exempted without authority is very large, often exceeding a tenth part of the value of a parish. The arbitrary exemption of course involves a proportionate overcharge in the other property in the parish.

It has been a matter of frequent remark, which we will not here dwell upon, that the excusal of a considerable number of poor persons from the rate begets in them an injurious indifference as to the disposal of a fund to which they do not contribute, leaving in them a disposition to acquiesce in its improper expenditure amongst their neighbours, and even to favour and collude with false and unfounded claims upon it. On the other hand, the strict enforcement of the rate upon all kinds of property is observed to have the effect of creating a general vigilance and jealousy in those poor rate-payers, who are at the same time the most constant witnesses of the conduct and condition of their neighbours, and the best judges of the propriety of the claims made by paupers upon the funds. Injurious as the effect of improper excusals is upon the poorer occupiers, it is scarcely more mischievous than the indifference begotten by the same practice in the owners of the exempted property, who, by the exemption, lose the motive to secure a correct application of the funds, and are, indeed, often left with motives, uncounteracted, to obtain for their tenants, as paupers, as large a share as possible of the rate exacted from other persons and properties. We believe that few more active causes of public local abuses can be found than these practices, where they prevail to any considerable extent.

A third way of dealing with some of the evils above described is that provided by the 59 Geo. III., c. 12, s. 19, which enables the inhabitants of a parish assembled in vestry to direct that any

—substitution of owners for occupiers;

RATING. *Persons Liable*; owners of houses and apartments shall be rated instead of the actual occupiers. The provision is limited to cases where the rent does not exceed 20*l.* a-year, nor fall short of 6*l.* The Act is in this respect, not only defective, but mischievous. A very large class of houses and cottages, the rent of which is less than 6*l.* a-year, must be rated, if at all, in the ordinary manner; but as the occupiers of these are generally poor persons, whose property it is very hard to distrain upon, and as the sums assessed upon them, though large in the aggregate, are small in each individual case, one of three evils generally arises,—either that the whole of the property is left out of the rate, which practice, though wholly illegal, may probably have been contemplated as a likely result by the framers of this enactment; or the property is inserted in the rate, and the collection is negligently conducted or wholly omitted; or the wholesale excusals by justices are effected in the manner before described.

So far as to the property, the rent of which is less than 6*l.* a-year. A portion of inconvenience attaches to the limitation of the provision to property the rent of which does not exceed 20*l.* In places resorted to by visitors for a season or for short periods of time, a large portion of the houses above 20*l.* a-year are habitually let for very short terms. It is usually found impossible to rate the occupier, and power is not given by this Act to rate the landlord, who, if he takes out his furniture when the occupier removes, is enabled to make an effectual escape from a great proportion, if not all, of the rates of the year.

But even as regards property of the value which should bring it within the operation of this provision, the Act is so framed as to be carried into operation much less frequently than was probably intended and is to be desired. It can only be put into operation by a resolution of the inhabitants assembled in vestry; against such a resolution not only the owners of the property, usually a very active class in parishes, are arrayed, but also many of the occupiers, who are persuaded that if the measure be carried into effect, they are sure to be called upon to pay an enhanced rent. Even where a resolution of vestry is carried, it is often very partial in its operation, for the Act allows the resolution to be made, not in general terms applicable to all the owners of property of the like description, but upon individual owners, omitting or including whomsoever the vestry may think fit. The absent and supine owners are thus very generally rated, while those who are active and attentive to parochial proceedings as frequently escape.

This provision, defective as it is, has still been found very beneficial in its effects. It is, however, expressly extended only to the Poor's Rate: by implication it extends also to the Highway Rate, and to the County Rate when the latter is paid out of the Poor's Rates. With regard to the Highway Rate, moreover, any powers given by any Local Act for this purpose with relation to Poor's Rates are extended to the Highway Rate of the place.

RATING.

Persons Liable.

There is another class of cases in which, for want of local property to distrain upon, it might be difficult or impossible to enforce payment of the rate from those upon whom the burden is cast, namely, that of the occupiers of tithe, the clerical owners of which are sometimes, and the lay owners of which are more frequently, non-resident. The alternative is given to officers charged with the duty of imposing local rates to assess either the owner of the rent-charge directly, or the occupier of the land out of which the tithe rent-charge issues; but in either case the rate upon the tithe may be recovered from the occupier. The occupier then has, where the rate is originally assessed upon him, a good power of recuperation against his landlord, and his landlord has the like power against the tithe-owner; but where the rate is levied upon the occupier, not having been at first assessed upon him, his power of recuperation appears to be defective. (App. (A.) Poor's Rate, **234**, **235**.) This provision is extended to all rates and charges to which tithe is liable.

—difficulties as to tithe-owners; —substitution of occupiers of land for the tithe-owners;

There is another instance of a substituted liability applicable to one of these taxes, the principle of which appears to be sound, though the provision itself is encumbered with a condition likely to make it wholly inoperative. Where a rate is raised for building a county lunatic asylum, it seems to be recognised that the transient occupier of the year should not pay for an improvement of so permanent a character. It is therefore provided that the justices at Quarter Sessions may direct every tenant at rack-rent to deduct one-half of the rate from the rent he pays to his landlord: but it is a condition that the justices shall unanimously agree to give this direction. As, however, justices of the peace are more usually interested as landlords than as occupiers of lands, an absolute unanimity amongst the justices to charge themselves for the benefit of tenants can scarcely be expected.

—division of rate between occupiers and owners.

2nd. As to the persons liable to *taxes of the miscellaneous series.*

—2. to taxes of the miscellaneous series.

There is perhaps no portion of the English law more confused and contradictory than that which relates to the liability of persons to the Church Rates. There are no statutory declarations, and very few judicial decisions, on the subject; while there is a great variety in the dicta of ecclesiastical writers and civilians.

Church Rate.

It appears, though some doubt is cast on this, that the same 'PARISHIONER,' if a resident, is liable to a rate on his realty for repairs of the church affecting the freehold, and on his personalty for a rate for procuring the services and ornaments of the church. If not a resident, he is not liable to the latter rate.

A man is a 'parishioner' if he holds lands in the parish, although he do not reside there. It is even said that he is an 'inhabitant' by virtue of the same facts; but this is a violent construction, and not necessary to render him rateable, he being rateable by reason of his being a 'parishioner,' and his inhabitancy

RATING.
Persons Liable.

is admitted not to be material in respect of a rate for real repairs, while his mere non-residence is equally admitted generally to exempt him from the rate for personal purposes.

It appears that the 'OCCUPIER' of land is liable, and that the 'OWNER' is not liable in respect of that land, though liable, if resident, in respect of his wealth as a 'parishioner.'

Though the law appears to be generally as here stated,—yet, in practice, the rate for real purposes is never distinguished from that for personal purposes: and the rate is now invariably laid on the 'occupiers' alone. In fact, the rate, in the mode of its imposition on persons and property, in no way differs from the Poor's Rate.

There are certain exemptions from this tax. The owner of the glebe, whether the spiritual rector or the lay impropriator, is exempt from the general rate, being already liable, as owner of the glebe, to the repair of the chancel. There are authorities to the effect that poor persons may be omitted from the rate, if done without fraud and with the consent of the parish. Also that persons not parishioners, and not renting to the value of 10*l.*, may be omitted, though the practice may be shown to have existed for only 14 years. (App. (A.) Church Rates, **91.**) The provisions of the 54 Geo. III., c. 170, for excusing persons on account of poverty, extend to this rate: but the consenting parties to the excusal are the overseers or other persons charged with the relief of the poor.

The provisions for rating owners instead of occupiers, or for dividing the rate between outgoing and incoming occupiers, do not apply to this rate.

New Church Rates and Burial Ground Rates.

The observations as to the persons liable to Church Rate apply equally to the Rates for New Churches and to the Burial Ground Rates.

Sewers' Rate.

The Commissioners of Sewers are to convene a jury, and to inquire by the oaths of the honest and lawful men of the shire:—

1.—of the persons through whose defaults the hurts and damages which the Commissioners are empowered to amend had happened;

2.—and who hath or holdeth any lands or tenements, or common of pasture, or profits of fishing;

3.—or who hath or may have any hurt, loss, or disadvantage by any manner of means in the said places, as well near to the said dangers, lets, and impediments, as inhabiting or dwelling thereabouts;

and the Commissioners are to tax, assess, charge, and distrain *all* these persons and every of them.

1. The charge for doing damage appears to be a personal one, and probably would not be considered one for which the land could be permanently charged beyond the time of the person causing the damage, or one for which the landlord could be

charged if the occupier alone had caused the damage. It would also appear to be a charge to which the direction 'that every 'person liable shall be taxed after the quantity of his lands, by 'the number of acres, and after the rate of his portion, tenure, or 'profit, or his quantity of common,' is in its nature inapplicable; still it must be observed that the terms of the statute appear to prescribe these rules of estimation, without exception, for all classes of persons liable.

RATING.
Persons Liable.

2 and 3. These classes are of persons rated apparently, first, according to their ability to pay; secondly, according to the benefit they receive. It is an indispensable condition that a person taxed may by possibility receive benefit from the expenditure of the tax, and therefore holders of mountainous or high ground, which cannot be surrounded, are in general exempt. Still, the exact measure of the benefit is not the measure of the liability to be taxed. Again, the nature of the benefit received determines the question whether the tax shall be upon the occupier or the landlord; for the casual and common repairs, the occupier may be chargeable, although *he* may, it seems, demand reimbursement from his landlord; for extraordinary repairs benefiting the inheritance, as where a new wall is required, or the ancient defences are materially damaged, the lessor or reversioner is liable to be assessed. In either case the levy is to be made on the land, and therefore the occupier is liable, in the first instance, to be distrained on.

The king, and his tenants and farmers are expressly made liable to this tax.

Express provision is made for dividing the tax between outgoing and incoming tenants in proportion to the periods of their respective enjoyment of the property.

In practice we have not been able to learn that the clear directions of the statutes, or the principles laid down by the courts of law in construing them, are ever regarded in present practice. On the contrary, the rate is most usually laid on the same persons and in the same proportions as the Poor's Rate.

The General Sewers' Tax is to be apportioned amongst 'the 'OCCUPIERS of the lands and hereditaments in each parish, town-'ship, or place, which heretofore have been, or hereafter may be, 'within or partly within the jurisdiction of the Court of Sewers, 'in such proportions and upon such individuals as of right ought 'to pay the same.' This probably means that the tax is to be laid as the Sewers' Rate ought by law to be laid; but it seems contradictory to this view that only 'occupiers' are mentioned as liable to the apportionment.

General Sewers' Tax.

It has been before observed, that all these legal varieties, as to the persons liable, are disregarded in practice, and that the taxes are generally laid on the same persons as are liable to the Poor's Rate. The number of the persons liable to Poor's Rate would,

Number of persons liable to local taxes;

RATING.

Persons Liable.

—their proportions in property,

—and their proportions of the burden.

therefore, with some rare local exceptions, be the same as the number made liable in practice to all the local taxes; while for the reason that the other persons liable by law, are never in fact taxed, no inquiry has ever been made as to their number, or the property in respect of which they would by law be liable to contribute; and no information that we are aware of exists which would be applicable to the present state of things, except such as might be obtained under the operations of the new Property Tax, which involves all the varieties of persons by law liable to these local taxes, including those deriving profits from stock in trade, and other rateable personalty. The nearest approach to the number of persons liable to the local taxes which we can make, is by assuming that every occupier of houses or lands enumerated in the Abstract of the Population Returns is a rate-payer in respect of such house or land; and that every owner of tithe, clerical, appropriate or impropriate, is likewise a rate-payer. The chief inaccuracies in this will be, first, that many occupiers of houses are excused on account of poverty (though these are originally rateable); and next, that amongst the owners, both of clerical and appropriate tithe, there are pluralists, and the same person, college, or corporation may be rated in several different places.

1. Classes.	2. Number.	3. Value of Property assessed to Poor's Rate, and being nearly the same in practice as that assessed to other Taxes.	4. Amount of Poor Rate, (including County Rate,) Highway Rate, and Church Rate, (See also ante, p. 27.)	5. Proportion of Property to each Rate-Payer enumerated in Column 2.	6. Proportion of Annual Tax to each Tax-Payer enumerated in Column 2.
		£.	£.	£. s. d.	£. s. d.
1. Inhabitants liable for personalty, (included in most cases amongst occupiers of houses. 4.)	Unknown.				
2. Parsons and Vicars. .	10,810*				
3. Occupiers of Land, Underwood, Coal Mines, &c.	276,037†				
4. Occupiers of Houses, (many are excused on account of poverty) .	2,941,491‡	62,540,030§	7,542,703‖	19 6 11	2 6 8
5. Occupiers of Apartments rated separately in Boroughs . . .	Unknown.				
6. Owners of Houses rated instead of the Occupiers	Unknown.				
7. Impropriators of Tithes	2,905¶				
8. Appropriators of Tithes	1,519¶				
9. Reversioners liable to Sewers' Rate . . .	Unknown.				
Total . .	3,232,762	Besides the classes of which the numbers are unknown.			

* The number of parishes in England and Wales, not including districts of parishes with separate churches.

† The number of agricultural occupiers according to the Census of 1831.

‡ This is the number of *inhabited houses* in England and Wales, according to the Census of 1841.

§ The amount in 1841, taken from a Return made to the House of Commons, and ordered to be printed 6th May, 1842.

‖ The amount in 1839, taken from Returns on "Local Taxation," presented to the House of Commons, and ordered to be printed 26th August, 1839.

¶ These numbers are taken from the Report of the Commissioners for inquiring into Ecclesiastical Revenues, made the 16th of June, 1835.

Limitations on the Proportion, Amount, and Duration of Rates.

Without distinct provisions as to the scale upon which these local rates shall be made, the natural convenience of the mode of calculation has, by degrees, made the practice universal of laying the rate at some fixed proportion to every pound sterling of the annual value of the property in respect of which the tax is imposed,—as, at so many pence or so many shillings, for every pound. It is expressly required that the County Rate and the Police Rate shall each be a pound rate. Scale of Rate.

The difficulty with regard to the Sewers' Rate has been adverted to, namely, that the persons liable are to be assessed apparently on two different principles, first, after the quantity of their lands, tenements, and rents, by the number of acres and perches; secondly, after the rate of every person's tenure or profit. The latter criterion of rateability would perhaps justify the making of a poundage rate upon the estimated annual value; the former criterion of quantity of lands and number of acres and perches, as it is irreconcilable with the other, is, as we have observed, wholly disregarded, the rate being made more commonly on the same basis and by the same scale as the Poor's Rate.

The greater number of the rates may be raised without any direct legal limitation as to their amount. There is, however, an indirect and a natural limit to the amount of every rate. Amount of Rate;

The indirect limit consists in the definition of *the purposes* to which the rate may lawfully be applied. When these purposes are attained, there is no authority to raise or expend more money. This limitation is a very practical one, and operates with an effect proportionate to the completeness of the responsibility of the officers who are invested with the expenditure: but where there is not an effective accountability, the rate is rarely confined to its appropriate legal objects, and this limitation becomes inoperative.

The natural limit to the amount of the rate consisting in the exhaustion by taxation of the net profit upon which the tax must be laid, is, as a limit, not often reached; but there have been some few cases in which, by the increase of rates, especially of Poor's Rates, property has been thrown out of cultivation and occupation, and the power to make a rate has come to an end.* This exhaustion of the fund for taxation is a danger most imminent where the persons who control the expenditure are not exposed to the burden of the tax: thus, when the occupiers of land found out that the burdens of Poor's Rates fell upon their landlord's rent, while the proceeds of the rate could be expended amongst themselves, or in payment of their labourers' wages, the whole rent was in many cases absorbed by the tax, and in a still greater number of cases was rapidly approaching its exhaustion. In regard to the Poor's

* See the Report of the Poor Law Commissioners of Inquiry, 1834. 8vo. edit. pp. 63—67.

RATING.

Limitations.

—scale; amount; duration.

Rates, it was at their first institution anticipated that cases might exist in which the parish might be unable to maintain its poor, and provision was made for taxing the adjacent hundred or county in such cases.

It is very frequently alleged that officers make rates of a greater amount than is needed. The motives to do so are very considerable; the officer saves himself trouble in making fewer rates, and consequently in having fewer collections; the business of collection may be longer protracted, and the officer or his connexions or supporters may have the benefit of the delay; and the officer himself may nevertheless enjoy the advantage of having much larger balances continually in hand. To counteract the inducements to make or expend large sums, express limitations have been introduced as to some of the rates; thus, the utmost sum that may be raised by a Workhouse Building Rate is limited by the statute to the same amount as one year's Poor's Rates; the Highway Rates for a year are not to exceed 2*s.* 6*d.* in the pound, unless the ratepayers expressly direct larger sums to be raised; the Borough Watch Rate has various limits fixed by Act of Parliament for various cases. With regard to other rates, the rate-payers sometimes determine the amount, as is the case with the Lighting and Watching Rate and the Church Rate. With regard, again, to other rates, the officers making the rate are uncontrolled as to its amount, either by Act of Parliament or by the rate payers; thus, the overseers have the sole discretion as to the amount of Poor's Rates, the justices of the peace as to the amount of County Rates, and the Commissioners of Sewers as to the amount of Sewers' Rate.

Periods for making rates;

The Poor's Rate is directed to be made weekly or otherwise; this, when each rate-payer was personally known to the churchwardens and overseers, when the amount was small, and was collected at the church-doors after service, may have been convenient, but when it became necessary to make books, and the increase in the rate made the accuracy of the assessment a matter of importance, and a frequent subject of controversy and appeal, the making of rates weekly must in all cases have been inconvenient, and in most cases impossible; the overseers therefore availed themselves of the alternative afforded them by the words 'weekly, *or otherwise*,' to make the rates for periods longer than a week. In the reign of Queen Anne (1705), the Courts maintained that there ought to be a monthly rate, but that it could not be assessed for the whole of a quarter of a year. In the first year of the reign of George the Third (1761), we have Mr. Justice Wilmot's authority, that whatever the law might be, the practice then was not to make rates monthly,* and in 1771, it was held no longer necessary to make the rate monthly, and a quarterly rate was supported.† In

* Stevens *v.* Evans, 257, 2 Burr. 1152. Tracey *v.* Talbot, Salk. 532. Reg. *v.* Littleport, 6 Mod. 97.

† Rex *v.* St. George's, Middlesex. 2 Black. Rep. 694.

1797, a rate made for six months was held to be good, and reasons were assigned for the decision which would equally support a rate made for 12 months.*

—scale; amount; duration.

In practice, the period for which the Poor's Rate is made varies much in different districts, but it is usual to make a rate previous to the 25th of March, in order fully to cover any claims then existing against the overseers, who are about to go out of office. It is also usual to make another rate about Michaelmas. In town parishes, however, the more general practice is to make the rate quarterly. The most convenient practice, both to officers and rate-payers, is that authorized by many local Acts, of making one rate estimated for the expenditure of a whole year, but divisible for collection into quarterly portions. It is obvious that a large rate demanded at once may be inconvenient to a great portion of the rate-payers, while, on the other hand, very small and unequal rates are annoying to them, and disturb their private calculations as to their expenditure. Instances of both these kinds of inconvenience are frequent: the former kind is most so. Sewers' Rates, partly because the amount which would be required for short periods of time would be inconveniently small, and proportionally expensive in collection, and partly because there is no risk of loss by the removal of occupiers, the rate being recoverable from any succeeding tenant or the landlord, will often be found to be made for periods as long as two years.

Many other rates are to be made at periods to be determined at the discretion of the officers; as, the Church Rate, the Lighting and Watching Rate, the Sewers' Rate, the General Sewers' Tax, the County Rate, and the Borough Watch Rate.

With regard to County Rate, a new rate is to be made whenever three-fourths of the last rate is expended, but not before.

Division of rate between outgoing and incoming occupiers.

For whatever period a rate may be made, it will happen that some of the persons liable to pay it remove or cease to occupy before that period is expired, and become liable to the like rate in some other place, and are thus for a time subject to a double contribution. It may also occur that a person may begin to occupy some rateable property during the currency of the rate, or it may occur that a property may become rateable for the first time during the currency of the rate; in either of which cases, unless the person or the property can be subjected to the rate, there will be an evasion of the common burden, and to that extent an extra burden will be imposed upon the body of the rate-payers.

With respect to the Poor's Rate and the Sewers' Rate, there is an attempt to adjust the burden between the out-going and incoming tenants, so far as regards the two first cases, but no provision exists for rating any property which becomes occupied or profitable within the period of the currency of any rate. The provision as to the Poor's Rate is extremely defective; it does not

* Durrant *v.* Boys, 6 T. R. 580.

RATING. *Limitations.*

apply to a change of parson or vicar, nor (though this is not important while stock in trade remains as at present exempt from the rate) to a change of 'inhabitants.'

No similar provision is made for any other of the local rates.

Districts in which Rates are to be made.

1. Independent Districts.

The chief districts in which local taxes are levied, are—

—for the POOR'S RATE, the parish or the township,—extra-parochial places being exempt from this tax. If the parish or township be unable to levy a rate sufficient for its wants, the hundred may be taxed; if the hundred be not able to bear the tax, the County may be taxed. Where a Union for rating is made, such Union, consisting of any number of parishes or townships, becomes the district for making the rate;

—for the WORKHOUSE BUILDING RATE, and for the SURVEY AND VALUATION RATE, the same districts are rateable as in the case of the Poor's Rate;

—for the RATE FOR GAOL FEES, the districts are, cities, towns corporate, and places not contributing to the County Rate, and having no town rate or public stock; but within such places the rate is subdivided amongst the parishes and townships, and finally levied as Poor's Rate;

— for the CONSTABLES' RATE, the original and proper district is the township; the parish is expressly added by the 13 & 14 Car. II. Extra-parochial places, which are not townships, are exempt from this rate;

—for the HIGHWAY RATE, the chief districts are parishes and townships, but any other district which has previously maintained its highway separately, becomes a district for the purpose of raising this rate. Unions of any number of such districts may be made for the expenditure of the Highway Rate, but not for imposing and levying the rate in common;

—for the LIGHTING AND WATCHING RATE, any parish, or any wapentake, division, city, borough, liberty, township, market town, franchise, tithing, precinct, or chapelry, the inhabitants of which may please to adopt the provisions of the Lighting and Watching Act. If the inhabitants of any such division or place do not adopt those provisions, the inhabitants of *any part* of such place may. The rate is thus of optional introduction. It applies to comparatively a very small, though a very populous portion of England and Wales;

—for the MILITIA RATE, parishes and townships;

—for the CHURCH RATE, the parish is the most common district, but by custom the rate may be separately made in several villes of the same parish. Chapelries also are usually subjected both to a Church Rate, and to additional rates for their several chapels;

—for NEW CHURCHES, new districts without reference to previous boundaries, are carved out of the old parishes, and are to be

RATING.

Districts for Making Rates.

1. Independent districts.

deemed in law separate and distinct parishes for the maintenance of such new churches;

—for a BURIAL GROUND RATE, any parish or chapelry, or extra-parochial place;

—for the SEWERS' RATE, any district which may be arbitrarily assigned in the commission issued by the Lord Chancellor. These districts have been made without reference to any civil or ecclesiastical division, and very often without reference even to the natural levels or drainage.* The Commissioners may, within their general

* The following is a list of all the Commissions now in force, the names denoting the districts in which they have jurisdiction:—

Counties in which the limits are.		No. of Names in each Commission.
Kent and Surrey	East Mouldsey to Ravensbourne	281
Kent	Ravensbourne to Lombards Wall	116
	Walland Marsh	156
	Gravesend Bridge to Sheerness and Penshurst	97
	Lombards Wall to Gravesend Bridge	93
	Mersham, Ashford, Chart, Canterbury, &c.	180
	Teynham Tong, and Luddenham	99
	New Romney	38
Kent and Sussex	Level of Guldeford	43
Sussex	Rape of Arundel	140
	Pevensey and Hastings	155
	Lewes Laugton Levels	84
	Bramber	92
	Western parts of Sussex	122
Middlesex	Poplar Marsh	67
	Holborn and Finsbury	153
	St. Catherine's	30
	Tower Hamlets	192
	Westminster and Part of Middlesex	215
Middlesex, Essex, and Kent	Levels of Haveringham and Dagenham	123
Essex	Between Rainham Bridge and Mucking Mills	85
	Fobbing, Corringham, Stanford le Hope, Mucking, &c.	16
	Burnham, Southminster, Hundred of Denge	57
	Tendring Hundred	36
	Foulness Island	51
Norfolk	County of Norfolk	168
	Hundreds of Blofield, Charing, North Erpingham, &c.	86
Suffolk	Sudborne, &c.	24
	Blything, Mutford, &c.	84
	Iken	21
	Falkenham, Felixtow, Walton, Trimley St. Martin, &c., with the Hundred of Colnies	38
Ely	Wisbeach Hundred	25
Lincoln and Nottingham		105
Nottingham, &c.		290
Somerset County		593
Monmouth	Caldecot Level	100
York	Hatfield Chase	112
	East Parts of the East Riding	114
	Howdenshire, &c. in the East Riding	92
Gloucester	Henbury, Langley, &c.	191
Isle of Wight	Low Lands and Levels in the	47
Pembroke and Carmarthen	The Hundreds of Narberth, Castle Martin, and in the Liberty of Tenby, in the County of Pembroke, and the Hundred of Derllys, in the County of Carmarthen	18
	Total	5,809

RATING.

Districts for Making Rates.

district, fix the limits of any level, valley, or district, or of any portion of any valley or district for the purpose of making separate and distinct rates therein :

1. Independent districts.

—for the GENERAL SEWERS' TAX, different districts may be set out as the districts for rating, namely, any parish, township, or place within the jurisdiction of the Commissioners :

—for the DRAINAGE AND ENCLOSURE RATE, any district to which an Enclosure Act applies, where there is no power under such Act to levy arrears of rates.

2. Aggregate districts.

The remaining districts in which local taxes are levied, each consist of a combination or *aggregate* of parishes or townships, and the tax in each case is originally made for the aggregate district, and afterwards distributed amongst the *subdivisions* of that district. The respective districts for the taxes imposed on this system are—

—for the COUNTY RATE, *the aggregate districts* are counties, ridings, and divisions of counties having separate commissions of the peace, and cities, towns, and other places having separate commissions of the peace with exclusive jurisdiction : excluded from such districts are, all liberties and franchises which are subject to separate rates in the nature of County Rates, and all liberties, divisions, or places which before the 12 Geo. II. were not liable to contribute to County Rate : also are excepted out of such aggregate districts all corporate boroughs to which separate Courts of Quarter Sessions have been granted under the Municipal Corporations Act. *The subdivisions* are, all parishes, townships, and places, whether parochial or extra-parochial, situated within the aggregate district, and parts of such parishes and places when they are divided by the boundary line of the aggregate district :

—for the COUNTY RATE FOR LUNATIC ASYLUMS, *the aggregate districts* would appear to be any county, or riding, or division, liberty, county of a city, county of a town, cinque port, or town corporate, or any two or more adjacent counties, ridings, divisions, &c. It would seem, however, that liberties, cinque ports, and towns corporate can only be subjected to this rate when they have separate commissions of the peace, and raise a rate in the nature of a County Rate, for no subdivisions are liable, except such as are liable to contribute to County Rate. *The subdivisions* are, any parishes or places liable to contribute to the County Rate,—probably, however, extra-parochial places, which have no poor, and therefore could not have the benefit of the rate, would, notwithstanding the words of the statute, be held to be exempt :

—for the COUNTY RATE FOR BUILDING SHIRE-HALLS, &c., *the aggregate district* and *the subdivisions* appear to be the same as in the case of the general County Rate :

—for the RATE FOR THE BURIAL OF DEAD BODIES CAST ASHORE, *the aggregate districts* and *the subdivisions* appear to be the same as in the case of the County Rate :

RATING.

Districts for Making Rates.

2. Aggregate districts.

—for the HUNDRED RATE, *the aggregate districts* are, hundreds, wapentakes, wards, and other districts in the nature of hundreds; and liberties, franchises, cities, towns, and places, not being parts of any hundred, but contributing to a general County Rate; and also counties of cities, counties of towns, liberties, franchises, cities, towns, and places where there is any rate raised in the nature of a County Rate, or any fund applicable to similar purposes. The Statute also purports to include other districts where there is no rate raised in the nature of a County Rate, and no fund applicable to similar purposes; but to such places the detailed provisions of the Statute are certainly inapplicable. *The subdivisions* are, all parishes, townships, and extra-parochial places, liable to contribute to a general County Rate, or liable to contribute to any rate in the nature of a County Rate, or where there is any fund applicable to similar purposes:

—for the POLICE RATE, or COUNTY AND DISTRICT CONSTABLES' RATE, *the aggregated districts* are extremely various; namely, any whole county including parts of other counties within its boundaries, and omitting its own out-lying parts; any parliamentary divisions of counties under separate chief constables, or under the same chief constable; any two or more adjoining counties, or parts of counties under one chief constable; counties and boroughs consolidated; police divisions, consisting of any number of contiguous parishes, townships, or places, altogether containing not less than 25,000 inhabitants; police divisions, consisting of any division of the county for Petty or Special Sessions, or of any number of such divisions of the county; police districts for different proportions of constables and of payments. The Isle of Ely is expressly excepted from the operation of the Acts. *The subdivisions* are apparently those parishes, townships, and places within the aggregate districts which are liable to contribute to County Rate. When boroughs are consolidated with counties we have not discovered how the rate is to be raised within such boroughs:

—for the BOROUGH RATE, *the aggregate districts* are, any of the cities, boroughs, ports, cinque ports, or towns corporate, named in either of the Schedules (A) or (B) to the Municipal Corporations' Act, 5 & 6 Wm. IV., c. 76, according to the boundaries of such places as settled by that Act and the 6 & 7 Wm. IV., c. 103. *The subdivisions* are, parishes and townships maintaining their poor, and extra-parochial places, which are to contribute, as extra-parochial places do, to the County Rate; and, where parishes or places are divided by the borough boundary, the parts lying within the borough:

—for the WATCH RATE IN BOROUGHS, *the aggregate districts* consist only of parts of those boroughs named in either of the Schedules (A) or (B) to the Municipal Corporations' Act. Those parts are to be determined by the council; but the council cannot

RATING.

Districts for Making Rates.

2. Aggregate districts.

include any parts where before the passing of that Act no Watch Rate was levied, or which are more than 200 yards distant from any street or continuous line of houses regularly watched within the borough. In boroughs watched by day and by night, the district for making an enlarged rate are those parts of the borough which are so watched; *the subdivisions* are, parishes and townships, and extra-parochial places within the borough, and where any parish or place is divided by the borough boundary, the part of such parish or place within the borough.

Various origin, purposes, and extent of these districts.

The variety of districts in which local taxes are raised will thus be seen to be very great. One class of these districts are the ancient civil, or ecclesiastical divisions of the country formed originally upon a plan, and with objects no longer applicable to the circumstances of the community, such as the township and hundred —and, indeed, sometimes formed without reference to any territorial plan, such as the parishes, the original extent of which was dependent on the extent of the private manors, the tithes of which were appropriated to a given church. Those districts of the same species vary, therefore, very considerably in respect to their extent, their present population, and their modern administrative necessities, and, of course, proportionally in the amount of taxes required, and to some extent in their command of means for imposing and levying the taxes; some being inconveniently small, others cumbrously large with reference to the machinery with which the law has supplied them.

A second class of districts had a still more fortuitous origin; they are those places which in early times were omitted from the ordinary civil or ecclesiastical divisions, sometimes through being inaccessible or unappropriated, as unreclaimed marsh or waste lands; or not producing tithe, by which places often remained extra-parochial; or through being lawless places, as in marches or contested limits; or being places of defence, through which many peculiar franchises and liberties arose: or through being the property or subject to the jurisdiction of privileged lay or ecclesiastical personages, by which many other instances of extra-parochiality and exclusive civil franchises arose. In these places the laws relating to local taxation apply in a very anomalous manner, such places being usually subject to some of the taxes and wholly exempt from others. The most considerable class of places coming within this description are those denoted by the term 'extra-pa-' rochial places;' and consist chiefly of places exempted from the general law by reason of the privileges of ecclesiastical or collegiate bodies, who, at the time when a tax originated, provided for the performance of clerical duties for themselves. Though these places are numerous, the extent of territory included within them is not great, nor does the population of the whole of such places throughout England and Wales equal that of some

RATING.

Districts for Making Rates.

individual parishes*: but, inasmuch as they comprise the greater part of the Colleges of Oxford and Cambridge, of the Cathedral precincts, and the sites of many ancient palaces and royal demesnes, the value of the property included in them is, without doubt, much greater than the average value of property of

* The following TABLE is made up from the Census of the Year 1841:

County.	Number of Extra-Parochial Places.	Number of Inhabited Houses.	Population.
England:—			
Bedford	2	9	73
Berks	7	74	491
Bucks	7	9	136
Cambridge	4	34	209
,, Borough	16	27	640
Chester	13	236	1,585
Cornwall	3	50	221
Cumberland	7	131	758
Derby	9	383	2,024
Devon	7	29	122
Dorset	4	11	67
Durham	6	71	535
Essex	5	11	80
Gloucester	17	2,772	13,871
Hereford	10	52	306
Hertford	1	1	7
Huntingdon	6	72	388
Kent	13	664	3,523
Lancaster	13	7,169	43,288
Leicester	29	440	2,304
Lincoln, Holland	14	208	1,202
,, Kesteven	11	103	717
,, Lindsey	22	92	644
Middlesex	20	1,548	9,325
Monmouth	4	48	216
Norfolk	9	24	233
Northampton	19	498	3,005
Northumberland	8	54	305
Nottingham	16	266	1,854
Oxford	16	58	429
Oxford City, University of	27	51	1,785
Rutland	2	11	74
Salop	11	45	293
Somerset	9	131	693
Southampton	39	481	2,660
Stafford	20	335	1,712
Suffolk	15	83	435
Surrey	6	13	393
Sussex	4	41	211
Warwick	9	62	333
Wilts	19	277	1,483
Worcester	8	321	1,565
York, East Riding	7	88	936
,, City and Ainsty	3	141	1,205
,, North Riding	6	40	268
,, West Riding	10	135	857
Total, England	513	17,399	103,461

RATING.

Districts for Making Rates.

equal extent, and occupied by an equal population, in the rest of the country. These extra-parochial places are liable to all the County Rates and Hundred Rates, the Sewers' Rate, the Police Rates, and the Borough Rates.

There is another class of districts, claiming not an absolute exemption from any tax, but the right either to tax themselves, to the exclusion of the districts within which they are locally situated, or to contribute partially towards a particular tax. This diversity arises from a custom in such places of providing for some of the special purposes of a tax by a mode peculiar to themselves; thus, many districts within counties customarily maintaining their own bridges or their own gaols are entitled to exemption from so much of the County Rate as would be applicable to the bridges or gaols of the county; and if this partial exemption existed at the time of the passing of the Act of 12 Geo. II., c. 29, such exemption is by that Act perpetuated, notwithstanding that such places may have since ceased to maintain their bridges or gaols.* Similar partial liabilities have been established by custom in respect to the Highway Rate; and with regard to the Church Rate, the proportions of the several villes of a parish are often fixed by custom: and chapelries are sometimes treated, by long usage, (though the legality of the usage is denied,) as partly free from the general Church Rate, but are more frequently and more lawfully burdened both with that and the maintenance of their several chapels. The districts for new churches are liable in addition to the maintenance of the district church, to contribute for 20 years to the maintenance of the original parish church.

Table, &c.—*continued.*

County.	Number of Extra-Parochial Places.	Number of Inhabited Houses.	Population.
Wales:—			
Anglesey	1	1	6
Brecon	2	25	137
Carmarthen	3	29	222
Carnarvon	2	17	118
Denbigh	1	22	108
Flint	1	32	126
Glamorgan	6	7	67
Merioneth	1	2	3
Montgomery	1	2	15
Pembroke	5	49	270
Total, Wales	23	186	1,072
,, England	513	17,399	103,461
Total, England and Wales	536	17,585	104,533

* Perhaps the *55 Geo. III., c.* 51, *s.* 1, restricted this exemption to the cases in which it has been sanctioned by grant, charter, or special local act.

Districts for Making Rates.

There is still another class of districts, chiefly introduced of late years under the sanction of various Acts of Parliament, which allow, sometimes the inhabitants, sometimes certain public functionaries, to adopt the provisions of an Act if they see fit, for such district as they may think proper. The Lighting and Watching Rate may be adopted partially by the inhabitants in any place. In boroughs the Watch Rate may be raised in such parts of the borough as the council may think fit to watch. The Police Rate, or County and District Constables' Rate, may be voluntarily adopted for any of those aggregated districts which are before described, and may be variously imposed in portions of those districts according to the determination of the justices of the peace. For the Sewers' Rate, different levels, valleys, and districts may be fixed by the Commissioners of Sewers, and separate and distinct rates may be made in them. This class of districts, though their limits may in some cases be capriciously determined, are at the present time perhaps, on the whole, and for their respective purposes, the most convenient of all the several kinds of districts we have described : they are still only of recent formation, and a sufficient time has not yet elapsed, or a sufficient change of circumstances yet taken place, to have made them much less convenient than they were at their first formation.

Disputed boundaries.

There are no subjects of dispute carried on with more obstinacy, or with more disregard of expense, than those relating to boundaries. There is usually a large public fund to defray the cost of litigation, and little regard is usually had to the fact that the land claimed, if it will pay its share of the common contributions, will also add its share to the burdens of the district which may succeed in appropriating it.

Some of the most obstinate disputes were those which related to reclaimed land interjacent between two or more parishes or townships. These cases were very effectually provided for by the 17 Geo. II., c. 37, which declared such lands to belong, for the purpose of rating to all parochial taxes, to the nearest parish, and which gave, in case of dispute, an appeal to Quarter Sessions.

The Tithe Commutation Acts contain ample powers for the settlement of the boundaries both of private persons and of parishes —the 1 Vict., c. 69, s. 2, for districts, the tithes of which are to be commuted ; the 2 & 3 Vict., c. 62, for any parishes two-thirds of the landowners of each of which make application to the Tithe Commissioners to settle their boundaries; and the 3 Vict., c. 15, for settlement of the same questions, on the application of two-thirds of the landowners of one parish, those of the other parish not objecting. These provisions would most probably be adequate to the solution of most of the difficulties likely to arise as to the boundaries of the chief districts for the imposition of local taxes during the continuance of the Tithe Commission.

In the case of disputes, or apprehended disputes, as to the

RATING.

Districts for Making Rates.

boundaries of counties, ridings, divisions, or parts of counties, and any other places of distinct and separate jurisdiction, the justices of such respective jurisdiction may appoint two justices on each side to determine the boundary; these justices may summon and examine witnesses on oath, and enter upon, and measure and survey lands: if the justices cannot agree, they may appoint a referee. The decision of the justices, if they all agree, or of the majority, including the referee, where they disagree, binds both places, but only with reference to the assessing and levying of County Rates.

The boundaries of the boroughs named in Schedules (A) and (B) of the Municipal Corporations' Act, are settled by the 5 & 6 Wm. IV., c. 76, ss. 7, 8, and the 6 & 7 Wm. IV., c. 103.

The making and amending of Rates.

The making of rates;

In laying the rates on these properties, persons, and districts, some forms of proceeding are prescribed, the chief of which are the following:—In making the Poor's Rate it was required by the

—books;

17 Geo. II., c. 38, (1744,) that *books* should be provided, and that true and just copies of all rates for the relief of the poor should be fairly wrote and entered therein. No similar provision is expressly made for any other rate, but it is often assumed that a rate will be made in a book. Thus in the case of the Highway Rate, certain particulars are required to be entered, which the surveyor is directed to sign. As a matter of convenience, however, the material particulars of every rate are entered in some book.

The process of making a Rate, essentially consists in the determination of the amounts of the contributions to be made, by individuals respectively liable to the tax.

—in independent districts;

In the taxes for independent districts, the process of imposition of all the taxes treated of in this Report, consists in nothing more than ascertaining and describing the properties in respect of which the tax is imposed—the persons liable—the rateable value of the properties, and the sums required to be paid in connexion with each property. These being entered in a book, constitute for the most part the Rate Book. In the case of the Poor's Rate Book, some other particulars are required to be entered, the most important of which is the gross estimated rental.

—in aggregate districts.

In the taxes for aggregate districts the process is different. The persons having the authority to order the rate to be made, usually do no more than state the sum in the pound at which the rate is to be made for the whole aggregate district, or else the gross sum to be paid by each subdivision; leaving the repartition of this poundage-rate, or this sum in gross, to be carried into effect by the respective officers of the subdivision. This, in the taxes on the basis of the County Rates, is done as a separate and distinct rate in the very few instances where there is no Poor's Rate, or Constables' Rate, applicable equally to the whole of the subdivision;

but in the great majority of cases, it is done by simply paying the aggregate rate out of the Poor's Rate, or Constables' Rate of the parish, township, or place constituting the subdivision.

Allowance of rate.

Where a rate is prepared by the proper officers, it is sometimes required that it should be *allowed* by some superior officer: thus, the Poor's Rate, the Constables' Rate, the Highway Rate, and perhaps the Gaol Fees' Rate, before they are of any force, are to be allowed by two justices; the Militia Rate by one justice; the Church Rate is usually allowed by the archdeacon or other authorized ordinary, but this allowance is not considered essential to its validity.

Although the Poor's Rate is of no force until allowed by two justices, it was still held that the allowance was a mere matter of form, a merely ministerial act; and consequently if any rate signed by the proper number of overseers, was presented to justices, they were bound to allow it, and could be compelled by *mandamus* to do so. It is not easy to conceive what effect such allowance (called a 'consent' by the Statute of Elizabeth) could produce, except useless trouble to both the justices and the overseers. More recently, the 6 & 7 Wm. IV., c. 96, s. 1, declared that '*no rate* 'for the relief of the poor in England and Wales *shall be allowed* '*by any justices*, or be of any force, which shall not be made on an 'estimate of the net annual value of the several hereditaments 'rated," &c. It was understood that this provision was to supply the insufficiency of the appeal for the cure of the rate, it being clear that rate-payers will never appeal when they are all rated too low, while it was supposed that the justices would, with a view to the County Rate, be willing to check any apparent general under-estimate of property. In the case of *The Queen* v. *the Earl of Yarborough*,* however, where it is decided that the overseers are not bound by a professional valuation, it also appears to have been the opinion of the Court that the justices' consent remains in all respects ministerial as before, and that if the overseers sign the declaration that the particulars in the rate are correct so far as they can ascertain them, the justices are bound, whatever may be their opinion, to allow the rate. If this be so, the allowance still remains a useless form which the law forbids to be dispensed with.

With regard to the Highway Rate, the allowance of the justices retains its purely ministerial character.

With regard to the Church Rate, the act of the ordinary appears clearly to be judicial, inasmuch as the proper mode of resisting any Church Rate, which is generally invalid, is by a *caveat* against its confirmation by the ordinary.

---

* 12 Adol. and Ellis, 416.

RATING.

The Making and Amending of Rates.

Publication of rate.

The making of the rate being completed, it is sometimes required that its contents should be announced to the persons liable to it. This is to be done in various ways. In one case, that of the General Sewers' Tax, it is required that every occupier upon whom the tax is apportioned shall have *notice* of it, in writing, ten days before the holding of the next Court of Sewers. In other cases, it is required that general notice of it shall be given in some public place: thus, notice of the Poor's Rate and of the Highway Rate must be placed, on the Sunday next after allowance, upon the church and chapel doors: if this be neglected with regard to the Poor's Rate, the rate is void. The only really effectual publication of the rate, however, is that enforced in regard to the Poor's Rate, namely, by the permission to the persons affected by the rate to have an actual *inspection* of its contents, and to take or demand copies or extracts—a right enforced by mandamus, and protected by penalties and penal actions. It is to be regretted that these rights are conveyed in very incongruous language; but the defects of the Statutes in this respect are very rarely made use of to prevent the full enjoyment of the intended benefit. No provisions are made for the like allowance to inspect any of the other rates, unless the 6 & 7 Wm. IV., c. 96, s. 5, extends, as its language appears to do, the right to inspect every rate made for a parish, to the persons rated to the poor of that parish. A singular privilege is given by the 6 & 7 Wm. IV., c. 71, s. 70, to the owner of tithe rent-charge, of inspecting every assessment whatsoever containing any charge upon his rent-charge, in the same manner as any rate-payer may do in the case of Poor's Rate. Another provision for the benefit of landowners as well as tithe-owners, apparently bearing upon this right of inspection, is contained in the 2 & 3 Vict., c. 62, s. 3.

Amendment of rates; —amicable;

When a rate is once made and in force, it appears that, without express provision, the officers who made it are bound by it, and cannot, at least in the case of the Poor's Rate, either *amend* or abandon it, or even refer it amicably to arbitration. There appears to be nothing in the doctrines promulgated in the decisions of the Courts on this subject which is in any way peculiarly applicable to the Poor's Rate, and it may therefore be stated generally of all the rates, excepting alone the Highway Rate, that a rate once made, although liable to be quashed or amended on appeal to the proper tribunals, cannot be amicably amended or abandoned.

With regard to the Highway Rate, express power is given to the surveyor, with the consent of the justices, to amend any error or omission; and the amendment, when signed by them, operates as part of the original rate.

—litigious;

There are various ways in which a person may be injured by a rate, and, according to the nature of these injuries, he may some-

The Making and Amending of Rates.

times right himself by a merely passive resistance; at other times he must resort to active proceedings. Thus, where the rate is altogether a nullity, as being made for a wrong district, or not duly published, or where the person rated is not liable to the rate, or not liable with respect to that property for which he is charged, he may passively refuse payment of the rate and the officers can only levy it at their peril,—a distress under such circumstances being a trespass.

If, however, the rate is not wholly a nullity, and the person aggrieved is liable in respect of the property for which he is rated, but only objects to the amount assessed upon him, or to the amount assessed upon any other person, or because other persons are put on or left out of the rate, he is bound in the case of the Poor's Rate to resort to the special remedy afforded him, namely, the appeal. It may be presumed that the like obligation to resort to the special remedies for such grievances would be applied in the case of all other rates where special remedies are provided, as the Highway Rate, the Lighting and Watching Rate, the County Rate, apparently the Church Rate, and the General Sewers' Tax. In respect of all the other rates, for relief from which no special remedies are provided, it would seem that illegality or irregularity in the rate exposes the officers who levy it to actions of trespass.

The active remedies against a rate are usually limited to a certain period; thus, if the General Sewers' Tax be not appealed against to the Court next after its apportionment, the tax is final. Where appeals are given to Quarter Sessions, they are usually limited to the next possible Sessions. The special remedies can generally be resorted to only while the rate is in collection.

The active remedies which may be resorted to are the following:—

Certiorari;

Where there is no special remedy created by statute against a rate, it would seem that it may be brought into the Court of Queen's Bench by *certiorari;* at least it has been so decided in the case of the Sewers' Rate; and the liability of a County Rate to be quashed or discharged on *certiorari* is recognized by the 12 Geo. II., c. 29, notwithstanding that a specific appeal was given against that rate by the same statute. It may, however, be that a certiorari would be granted to bring up these two rates, because both of them are made by Courts of Record, namely, the Court of the Commissioners of Sewers and the Court of Quarter Sessions, and that it would not be issued to bring up other rates made by officers not invested with the character of Courts of Record.

The certiorari now spoken of is not the writ issued when a rate is contested in an inferior court of justice to bring up the proceedings of that inferior court into the Court of Queen's Bench, but is the writ issued to the officers making the rate to bring up the rate itself simply and independently of other proceedings.

RATING.

The Making and Amending of Rates.

In the case of Poor's Rate, as there is an appeal given, no certiorari will be issued to bring up the rate, except as an incident to an appeal, and, together with the other proceedings of the Sessions, for the purpose of controlling the judgment of the latter and not of directly correcting the rate; indeed, in the case of the Poor's Rate, when it is to be brought up with other proceedings at Sessions, the Court of Queen's Bench dispenses with the production of the original rate, and accepts an attested copy, in order not to interfere with the collection necessary for the maintenance of the poor.

Injunction;

In the case of the Sewers' Rate, against which there is no specific remedy, it is questioned whether the Court of Chancery would not grant an *injunction* to prevent proceedings to enforce an illegal rate; but the existence of this protection does not appear to have been discussed with respect to any other rates.

Special remedies against illegal rates, exist in the case of the Church Rate, the Poor's Rate, the Highway Rate, the Lighting and Watching Rate, the County Rate, the Borough Rate, and perhaps the Police Rate—the General Sewers' Tax, and perhaps

Appeals;

the Sewers' Rate. These are generally *appeals* or proceedings analogous to appeals. These can only exist by express provision it being a general rule that a certiorari exists in all judicial proceedings in inferior Courts of Record, and cannot be taken away but by express enactment; and that an appeal, on the contrary, can only exist by virtue of an express enactment.

—against the Poor's Rate;

Of all the rates for the correction of which special remedies have been provided, the Poor's Rate has necessarily, from its importance, obtained the greatest share of attention from the public and from Parliament; and the enactments for the purpose are at the same time the most comprehensive and the most minute, precise, and practical of any.

—to Quarter Sessions;

Until recently the appeal against the Poor's Rate was alone to Quarter Sessions. Previous to the appeal it is necessary, if the party only complains that he himself is aggrieved, without seeking to surcharge others, to give notice of appeal to the overseers; but if he seeks to impose or increase a charge upon others, it is necessary to give notice of appeal to all persons interested in the determination. The Court of Quarter Sessions has ample legal powers for the determination of every question, but is restricted in every case from examining into any other causes of appeal than such as are stated in the notice of appeal. The Court is to amend all defects of mere form, without costs to the party; and before they proceed upon the matter of the appeal, where the rate is only defective in details, and therefore susceptible of amendment, the Court is bound to amend it, and not to quash it; but where the rate is made on a defective principle, and does not admit of a remedy to the party appealing by a mere amendment as to his own proportion, or that of the other persons to whom he has given

The Making and Amending of Rates.

notice of appeal, the Court may wholly quash the rate; and the Court has power to award costs to the successful party.

During the appeal, the rate is still leviable, at least to an amount equal to that of the last effective rate: and if the rate be eventually amended or quashed, any money overpaid is to be returned or allowed for in the next rate; and where money has been levied under a rate which is afterwards quashed, the officers levying it are protected from actions of trespass. The Court of Queen's Bench controls the proceedings in this appeal, by means of the power which the justices have of stating a case specially, and by means of its own prerogative of bringing the proceedings of the justices before it by certiorari.

Appeals;

This appeal to Quarter Sessions is applied in its entirety to the Lighting and Watching Rate, and to the Militia Rate. It is only applied to the Highway Rate partially, that is, to the extent to which the provisions of the 41 Geo. III., c. 23, may be applicable to the Highway Rate.

—applied to some other rates;

An appeal against the County Rate is given to Quarter Sessions, that is, to the court itself that made the rate thus appealed against. The only parties who can make such appeal are the overseers, petty constables, or persons appointed to act as overseers in collecting the rate in a parish or other subdivision of a county. Such a person must give notice of his appeal to the clerk of the peace, to the hundred constable, and if he appeals on the ground that other parishes are under-rated, then to such other parishes. The Court is apparently not to quash the rate in regard to any parishes than those mentioned in the notice of appeal, except where it judges it to be necessary to make an entire new rate.

—against the general County Rate;

—to Quarter Sessions;

If a County Rate be quashed or discharged, the moneys paid under it, beyond what should have been paid, are to be repaid or allowed in the next rate.

This appeal against the County Rate is very rarely resorted to; in fact, the difficulty to the officers of one parish to prove the under-rating of another parish must be almost insuperable, while, by reason of the general practice before described as prevailing amongst parishes of undervaluing their own property, any one parish is rarely, if ever, in a condition to show that it is absolutely overcharged to the County Rate, however true it may be that it is relatively overcharged. As far as we can learn, therefore, this provision of an appeal is practically inoperative.

—*qu.*, extended to other County and the Hundred Rates?

The power of appeal against the general County Rate does not appear to be extended to the County Rate for Lunatic Asylums, or that for Shire-halls, nor to the Hundred Rate.

With regard to the Police Rate, it is assumed, by the 3 & 4 Vic., c. 88, s. 8, that some right of appeal does exist, but such right is nowhere, so far as we can discover, expressly given: and,

—*qu.*, any appeal against the County Police Rates.

RATING.

The Making and Amending of Rates.

as before remarked, an appeal does not exist as a matter of course.

Appeals; —against the Borough Rate;

In the Boroughs mentioned in Schedules (A) and (B) of the Municipal Corporations' Act, the like right of appeal is given against the Borough Rate as then existed against the County Rate. If the borough have a Court of Quarter Sessions, the appeal is to the Recorder at the next Quarter Sessions; if not, the appeal is to the next Quarter Sessions for the County within which the borough is situate, or to which it is adjacent.

It may be remarked, that the power of appeal against a Borough Rate, though subject to many of the difficulties of the appeal against County Rates, is yet distinguished by two considerable differences. In regard to the County Rate, the Quarter Sessions both makes the rate and hears and determines the appeal against it. In regard to the Borough Rate, the Council makes the rate, but the appeal against it is heard and determined by the Recorder, an independent judge, or by the justices of the surrounding or adjacent county, who have had nothing to do in imposing it originally. As regards also the evidence of inequality in the assessment of parishes, this evidence is much more easily obtained and displayed in the few and compact parishes ordinarily within the limits of a borough than in the numerous, large, and widely-spread parishes of a whole county. Nevertheless it is, as we understand, a general belief of those members of the legal profession who have examined the subject, that the provision of an appeal against the Borough Rate does not afford a sufficient practical remedy against inequalities in the assessment.

Appeal to Special Sessions;

Much of the irregularity and injustice in the valuation of property generally, and of the partial oppression on individuals, must have been submitted to as an alternative preferable to an appeal to the Court of Quarter Sessions.

This Court is at a considerable distance from the majority of parishes in which the grievance is effected. Upon a subject so delicate and unsusceptible of distinct estimation as the value of the various kinds of property subject to the rate, it is usually indispensable that technical evidence, and professional, and therefore costly, witnesses should be produced. After this expense was incurred, there was still good reason to doubt whether a disputed and often difficult question of valuation would be properly decided by any tribunal having the ordinary constitution of a court of justice, mainly intended for the decision of a totally different class of questions. These were strong inducements to persons aggrieved by a rate to abstain from appealing, and tended to leave the ignorance, indolence, or partiality of the officers imposing the rate without a check.

The Making and Amending of Rates.

In 1836, it was declared by the Parochial Assessments' Act to be 'desirable to lessen the cost of appeal against an unfair rate.' The Act accordingly requires the justices acting for every petty sessional division to hold, at least four times a-year, a special sessions for hearing appeals against the rates of parishes or other districts within their divisions. Public notice of the time and place of holding such sessions is to be given in every parish 28 days beforehand.

Appeal to Special Sessions;

Any person objecting to the rate must give notice of his objections, seven days at least previous to the sessions, to the collector, overseer, or other persons by whom the rate has been made; but no provision is made for notice to other persons who may be prejudicially affected by the decision, and who, in the case of an appeal to Quarter Sessions, would be entitled to notice. The justices at the Special Sessions are to hear and determine all objections to any rate on the ground of inequality, unfairness, or incorrectness in the valuation of any hereditaments included in it, but are not to inquire into the liability of any hereditament to be rated. The justices have all the powers in other respects which the Court of Quarter Sessions would have upon appeal against the same rate. Their order is not to be removed by *certiorari* or otherwise into any of the Queen's Courts at Westminster, and is to be conclusive on all parties, unless it be appealed against to Quarter Sessions.

But if either of the parties impugn the decision of the Special Sessions, he may, upon giving 14 days' notice in writing, and upon entering into a recognizance with sureties for trying the appeal, and for payment of costs, appeal from the decision of the Petty Sessions to the Quarter Sessions: thereupon the justices at Quarter Sessions are to receive, hear, and determine the appeal, and may award costs according to their discretion—and their determination is conclusive upon all parties.

—cumulative upon, and concurrent with, the appeal to Quarter Sessions;

It is to be observed that this appeal to Special Sessions, and thence to Quarter Sessions, in no wise interferes with the right of the party to appeal originally, exactly upon the same grounds, to the Quarter Sessions.

—*qu.*, applicable to *all* rates made for districts included within divisions of Petty Sessions?

This appeal to Special Sessions is given in terms which apply to all rates made for parishes and districts contained within divisions of Petty Sessions, and before subject of appeal to Quarter Sessions. Therefore the appeal would apply to the Highway Rates, the Lighting and Watching Rates, and the Militia Rate, as well as to the Poor's Rate. It may apply to a Borough Rate where the borough is within a division of Petty Sessions, and to a Police Rate (if that rate be subject to appeal at all) where the police district is contained within a division of Petty Sessions; but it cannot apply to any of the County Rates, because a county cannot be contained within a division of Petty Sessions; and it does not apply to the Workhouse Building Rate, Survey and

RATING. *The Making and Amending of Rates.*

Valuation Rate, Gaol Fees' Rate, Constables' Rate, Church Rate, Burial Ground Rate, Sewers' Rate, General Sewers' Tax, Burial of Dead Rate, or the Watch Rate in boroughs, because none of these were before subject to an appeal to Quarter Sessions. It is not generally understood that the appeal to Special Sessions is as applicable to other rates as to the Poor's Rate; but on reference to the Act, it will be seen that the appeal has as extensive an application as we have here ascribed to it.

The provision does not apply to places such as cities and municipal boroughs, and certain liberties where there are no petty sessional divisions; but in these places, from their less extent, the appeal to the Special Sessions would be of little advantage as an alternative to the appeal to Quarter Sessions, if indeed it would make any difference.

This appeal to Special Sessions is not given with a view to procuring a more efficient remedy, but professes only to lessen the cost of an appeal—an effect which is certainly produced where parties are content to abide by the decision of Special Sessions without appealing from thence to the Quarter Sessions.

As far as it has yet been seen, the practical effect of this appeal to Special Sessions has been chiefly to counteract the new valuations, for the appeal is found to be most frequently made with a view to reduce the appellant's rating, and not to increase that of other persons: and, on the whole, the success of the individual complainants, in reducing the recent valuations, has, partly by actual appeal, and partly by the threat of appeal, been considerable.

Appeals against other rates;

There are two other kinds of appeal applicable to the taxes of *the miscellaneous series* (page 7), namely, those against the Church Rate, and those against the General Sewers' Tax.

—against Church Rates;

The remedy for amendment of the CHURCH RATE has, since the statute *circumspecte agatis*, 13 Edw. I., been generally considered to be confined to the Spiritual Courts, but this jurisdiction has been broken in upon in modern times by two other protections to ratepayers, equivalent to appeals, but in many respects of a very anomalous character.

In fact, the jurisdiction of the Spiritual Courts is most inefficient; they had originally the exclusive power of deciding upon the validity of the rate, and upon the liability of the person to pay it, but they were wholly excluded from jurisdiction if the boundary of the parish came in question, or if, notwithstanding the established difference in the respective modes of receiving evidence in the Spiritual and in the Temporal Courts, they refused evidence admissible in the latter. In such cases a prohibition issues to prevent the Spiritual Court from proceeding, and they have accordingly been checked at every step in their attempt to deal with Church Rates. This, with their cumbrous practice as to evidence, and the costliness of their proceedings, superadded to the original

The Making and Amending of Rates.

defects and indefiniteness of the law itself relating to the rate, has deprived this appeal of the character of an effective and *bonâ fide* remedy, and caused it for the most part to be resorted to for litigious and vexatious objects.

There is in this appeal an anomaly which applies equally to the other remedies which have been more recently provided against an illegal or unequal Church Rate, namely, that the proceedings for the remedy against any partial injustice in the rate is not initiated by the person aggrieved. It takes place in this order:—The rate-payer disputing the rate is recommended in the first instance, as a matter of precaution, to attend at the vestry and state his objections there, if he has an opportunity of so doing; it is certainly not very manifest, however, how the rate-payer is to object at vestry to any detail of the rate which is not there assessed in detail, but only authorized according to a certain general proportion in the pound. If he have not the opportunity so to state his objections, or if he have, and his objections are not removed, he may refuse to pay his assessment, and on being proceeded against in the Ecclesiastical Court for subtraction of rate, he may, as a matter of defence, show that the rate is illegally made, or that he has been unduly rated. Another mode of proceeding is applicable to the case where the rate is objected to on general grounds, as before the complainant is recommended to attend at the vestry and state his objections; and if he has not the opportunity, or the objections are not removed, he may enter a *caveat* against the confirmation of the rate by the archdeacon or other ordinary. This *caveat* is an appeal to the ecclesiastical judge, who is thereupon to see right done. The Ecclesiastical Court has a discretion in both cases as to costs.

Order of Justices and appeal by Quakers.

The chief encroachment which has been made on the jurisdiction of the Spiritual Courts is that in favour of Quakers. If a Quaker refuse to pay Church Rate, and if any churchwarden complain of such refusal, and if the Quaker have had a reasonable warning of the complaint, one justice of the peace may summon him to appear before any two justices. These two justices may examine upon oath or affirmation into the 'truth and justice' of the complaint, and ascertain what may be due from the Quaker, and may order the payment of any sum not exceeding 50*l.*, with costs and charges not exceeding 12*s.* If the Quaker refuse to pay according to this order of the justices, the sum ordered to be paid may then be levied by distress, unless an appeal be made against the order to Quarter Sessions. If such appeal be made, the justices at Quarter Sessions may either reverse the judgment of the two justices or continue it. It does not appear whether they have the power to amend it. If the Court of Quarter Sessions affirm the assessment, they are to give costs against the appellant. This defence and appeal upon the ground of 'truth and justice'

RATING.

The Making and Amending of Rates.

gives much more ample latitude for entertaining objections against the rate than is enjoyed by the Spiritual Courts, and is thus far a very peculiar advantage given to Quakers, and denied to all other classes of rate-payers. By way of confirmation of this advantage, the 5 and 6 Wm. IV., c. 74, prohibits the Ecclesiastical Court from entertaining any suit or proceeding to recover from any Quaker any rate of or under the sum of 50*l.*; which very nearly amounts to an absolute exclusion of the jurisdiction of the Spiritual Courts, as a Church Rate upon any single person can very rarely, if ever, amount to so large a sum. The Ecclesiastical Court, however, is not ousted where the entire title to the rate, or where the question of the liability or exemption of the property, is *bonâ fide* in question.

As regards the GENERAL SEWERS' TAX, appeals are authorized in two different stages; first, against the General Tax; and next, against the apportionment of the Tax. It is declared, that if the appeals are not made to the Court of the Commissioners of Sewers held next after the expiration of 10 days after the notice of apportionment, both the General Tax itself and the apportionment are to be final and conclusive upon all parties whatsoever.

If any complaint be made of inequality in the tax in gross, or any allegation of non-liability to pay it, the next Court of Sewers may examine into the matter and decide upon it without requiring previous notice to be given to other parties interested in the question of equality. It is provided that the Court may amend the rate, by inserting the name of any person in it, or striking out any name, or by altering the sum charged on any person: but it is difficult to conceive how these powers of amendment apply to a rate in gross which is not imposed upon individual persons or properties. The Court may also, if it think fit, quash the rate; and its decision in any case is final.

Next, as to appeals against inequality in the apportionment; —the Court of Sewers is declared to have the same powers as in the preceding case, powers which appear to be, indeed, only applicable to the present case.

It is provided for both cases, that if any person object to the payment of the tax in gross, or of the apportionment, and if he give security to the Court for the payment of the costs and charges, the Court may direct a feigned issue, appeal (the meaning of 'appeal' here is not apparent), or action at law, to try any question as to inequality or non-liability.

Though the above appeals apply to the General Sewers' Tax, none such apply to the ordinary Sewers' Rate.

It has been before observed that an indirect remedy against an illegal rate applies wherever it is wholly unlawful to levy it. In these cases, the remedy by *replevin*, or by *action of trover*, or

trespass for an illegal distress, apply, but these are evidently the remedies for the grievance done by the wrongful distress, and not remedies for the amendment of the rate itself.

It may generally be remarked that a majority of the remedies before described are but little resorted to. This certainly is not attributable to the general legality of the practice of the officers imposing the respective rates, or to the general satisfaction of the rate-payers with the present practices: but it is, we believe, chiefly attributable, in the case of all the rates excepting the Poor's Rate, to the comparative smallness in each individual case of the benefit to be got by resorting to the legal remedies, to the cost and vexation attendant upon their prosecution, and perhaps, above all, to the imperfect nature and uncertainty of the remedy itself. The absence of litigation in such cases does not so much indicate the absence of injustice as it does the general submission to it, and may only show that a resort to litigation is considered a greater evil than the wrong itself.

Costs of defending an appeal.

Generally the *costs* of litigation incurred in any proceeding to try the validity of a rate fall upon the unsuccessful party. If the officers defending their rate succeed, they may obtain their costs from the appellant, or if they in any case fail in obtaining their costs from the appellant, then as the defence of the rate is proved by its successful event to have been justifiable, and as it is a duty of their office to maintain, or not to abandon a good rate, they may in such case apply the official funds coming into their hands for their reimbursement. But inasmuch as it is not the duty of an officer to make a bad rate, or to incur costs in defending it, or, where there is a good rate, to make use of an improper defence, it would appear that, if unsuccessful, he is not entitled either to recover his costs from the appellant, or to put the public to the expense of a wrongful or ill-advised defence by reimbursing himself from the rates in his hands.

There are, however, with regard to two rates, express provisions made to reimburse officers who have unsuccessfully defended a rate imposed by themselves. The justices of the peace for a county pay the expense of the defence of a County Rate out of the County Rate itself. In the case of the Highway Rate, the inhabitants of the parish may agree at vestry to defend an appeal; and if they approve of the expenses incurred, the surveyor of the parish may, with the allowance of two justices of the peace, charge the expenses in his accounts. Both provisions are of course chiefly applicable to unsuccessful defences, and therefore to those cases where the rate appealed against is already an injury to the contributors to the rate; and thus far both these provisions are methods of making the district pay the costs for being improperly rated, and to make successful appellants against a rate contribute to the cost of an improper resistance of their

RATING. *The Making and Amending of Rates.*

claims. Besides being an encouragement to litigation, inasmuch as, whether the defence succeeds or fails, the respondents are equally well off, the provision as to Highway Rates has also in practice been represented as enabling the majority of persons in the vestry to make a parish purse to defend any oppression upon any minority, such as, for instance, the tithe-owners always are in every parish.

The Collection and Levy of Rates.

Rates due; —on publication;

The rate being properly made, becomes *due*, in the case of the Poor's Rate and the Highway Rate, by its publication on the church and chapel doors on the Sunday next after its allowance. In other cases where no such publication is provided for, it may

—on demand.

be presumed generally that the rate is not due till a *demand* has been made. It is decided that the Church Rate is not due till after demand made.

In two cases, namely, the General Sewers' Tax and the Drainage and Enclosure Rates, *notice* that the rate is due is required to be given in writing.

In one case, that of the Drainage and Enclosure Rates, it is declared that the service of notice at the place of abode of the person liable, or on the lands or property liable, shall have the same effect as service of the notice on the person.

Levy;

Payment may now be required by the officers or persons invested with the power of collection.

collection;

The *collection* of the rate is the most laborious duty connected with it. Generally, with respect to the rates for independent districts, it is, in the first place, to be performed by the officers who impose the rate. In large districts, however, the duty is so heavy as to make the performance of it by unpaid officers an impossibility; and in small districts, the negligent manner of its performance, and the consequent losses, make it almost always a certain saving to those who do pay their rates, to have the duty performed by a paid officer.

With regard to the Poor's Rate, the duty of collection was by the statute of Elizabeth imposed on the overseers. While the rate was small in amount and varied little in its mode of collection from a voluntary contribution, paid in trifling sums on every Sunday after Church Service, the duty of the churchwardens and overseers was not very onerous. But when the amount of the rate became more considerable, and the universality and equality of contribution more necessary, the former simple mode of collection could be no longer used, and the duty of a minute and accurate imposition and enforcement of the tax became in populous parishes a grievous burden on unpaid officers. It became a very frequent practice to have a standing overseer, who was paid with

the acquiescence of the parish, but without legal authority. In a great number of the more important parishes, authority was obtained by local acts to employ and pay collectors under various denominations, and at length a general power was given by Mr. Sturges Bourne's Act to appoint an assistant overseer, which was soon after its enactment resorted to in almost all the larger parishes in England and Wales. In 1834-5, the number of such appointments was estimated, according to returns partially made to the Poor Law Commissioners, to amount to not less than 5,270. The Act enabled the inhabitants to specify what duties of the overseers the assistant overseer was to perform. It was, perhaps, in the greater number of cases, most convenient that he should assess as well as collect the rate. Even where several assistant overseers were appointed for the same parish it seems never to have occurred that the assessment, and the custody and the collection of the rate ought to have been given to different persons. The assistant overseer, as collector, was interested in reducing the number of the assessments, and the manner of his compensation by yearly salary did not counteract that interest, as a payment by a poundage might have done. The tenure of his office, at the pleasure of the vestry, also caused him to be almost universally the partisan and representative of that active class of parishioners who constitute the majority in open vestries, especially of the owners of small properties. The annual unpaid overseers, are, as a class, comparatively independent, in personal interest, of the open vestry, and were and still are, as a rule, much less submissive to it. The wholesale omissions and excusals from the rate which we have before described were, we believe, chiefly made by assistant overseers, though since extended very generally to parishes where such officers are not appointed. Nevertheless, upon the whole, the appointment of an assistant overseer, whether he were competent or not to his duties, caused a more regular and uniform performance of them while he continued in office. The number of defaulters amongst them have been much greater, however, than amongst the overseers. The reason for this may be, that the overseer knows from the beginning of the year that he must give up his balance at the end, while the assistant overseer knows that his yearly account does not bring with it the necessity of paying over any balance, and he easily becomes accustomed to be in arrear with the parish.

The assistant overseers having in most cases all the duties of the overseers, it followed that they also assessed and collected the Lighting and Watching Rate when that was made, and the Militia Rate, as well as the rates of the County Rate series, (p. 7.)

Still a great majority of the parishes in the country could not avail themselves of the power to appoint assistant overseers, because the business was too small in amount to employ one

RATING.

The Collection and Levy of Rates.

officer, or to justify such a remuneration as would secure a better service than that gratuitously afforded by the annual overseers.

When the Poor Law Amendment Act was brought into operation by the formation of unions, it was thought desirable for several reasons to authorize in large parishes the appointment of collectors by Boards of Guardians, in order to secure a better choice of officers, more permanency in their tenure of office, less subserviency to the parties governing in the vestry, and more regularity in the performance of the duty of providing the funds necessary to the Guardians, which were frequently withheld by overseers and assistant overseers. The Poor Law Commissioners were advised by counsel of the highest authority that the power given in the 46th section of the Poor Law Amendment Act 'to 'direct Guardians of Unions to appoint such paid officers with 'such qualifications as the Commissioners might think necessary 'for superintending or assisting in the administration of the relief 'and employment of the Poor,' &c., coupled with the definition of the word 'officer' in the 109th section of the Act, expressly including 'collector,' enabled the Commissioners to direct the appointment of collectors for parishes and districts of parishes. The Commissioners accordingly issued orders for the appointment of collectors to Unions for about 4,600 parishes. In Easter Term, 1839, however, one of these orders for the appointment of a collector was quashed in the Court of Queen's Bench, on the ground that until the Union was converted into a Union for rating, the Guardians had no connexion with the Poor's Rates, and consequently until that event no power to appoint a collector. Hereupon the Commissioners were prepared to revoke their other orders, but in the meantime issued the circular inquiries described in the Report on the further Amendment of the Poor Law (1839), and received the answers there set forth, to the effect almost without exception, that much inconvenience would result from the revocation of their orders, and that no objection was entertained by any person in the respective Unions to their continuance in force. This almost universal agreement in the places in which experience had been had of the services of these collectors, might perhaps have justified an enactment to make general the power to appoint a collector; but it was thought more expedient during the then sitting of Parliament to obtain only a confirmation of the Commissioners' orders then in force in the 4,600 parishes in England and Wales. The Act 2 & 3 Vict., c. 84, was passed to this effect. The result is, that in 4,600 parishes in England and Wales there is a power in the Guardians constituted under the Poor Law Amendment Act to appoint paid collectors of Poor's Rates. In the same parishes, and in all the other parishes of England and Wales, there is also a power in the inhabitants and

The Collection and Levy of Rates.

the justices of the peace to appoint a paid collector under the denominaton of 'Assistant Overseer.'

There is an inconvenience which attaches in some places to the present position of the Guardians and their collectors with reference to the overseers. The overseers are still, notwithstanding the appointment of these collectors, responsible to the Guardians for supplying the funds necessary for the maintenance, by the latter, of the poor of the parish; and where the contributions are in arrear the goods of the overseer may be distrained on. Where the overseers have made, in reasonable time, sufficient rates for the purposes of the parish, and have not diverted the rates when collected to other purposes less urgent than the relief of the poor, and where the funds are not in their hands through the delay of the collector, it is evidently hard to distrain on the overseers; and where collectors exist, these, or some of these, are the usual allegations of overseers when called before justices under the 2 & 3 Vict., c. 84, to show cause why a distress warrant should not be issued against them. The evidence in support or disproof of such allegations would be too complicate and extensive to be gone into on such an occasion by the justices, who in the face of such allegations are very often reluctant to issue their warrant of distress, and accordingly there is great difficulty in enforcing the payment of contributions to the Guardians whenever the collection is taken out of the overseers' hands. This inconvenience, arising from the continuing liability of the overseers in respect of the contributions whilst they are relieved from the collection (for they are not legally prevented from collecting the rate), has been experienced in several of the northern Unions, and might on any disagreement between the Boards of Guardians and the overseers serve as a source of embarrassment in any other Union.

—enforcement;

If payment be refused of a rate lawfully due, various modes are provided for its *forcible recovery*.

—by distress.

The chief of these modes is by *distress and sale* of goods.

In one instance, that of the DRAINAGE and ENCLOSURE RATES, the rate is made recoverable only within six years after the debt became due, or a promise was made; in no other case is an express limitation in bar of the remedy provided.

On complaint made of non-payment, it is a general rule that a *summons* of the party in default should precede a warrant. Ordinarily one justice may issue this summons; in the case of the Drainage and Enclosure Rates, the justice may also summon witnesses on both sides. The defaulter is usually summoned to *appear* before two justices; if he appears, the justices examine into the merits of the case, but are usually restricted from entertaining any such objections to the payment, as would form proper grounds for appeal, or for resorting to the special

RATING.

The Collection and Levy of Rates.

remedies provided for amendment of the rate. The peculiar exception in the case of the Church Rate has been before adverted to, namely, that made in favour of Quakers, who may, upon such summons, urge before two justices objections to the rate itself, wider than could be entertained by the Spiritual Courts even upon a regular appeal. In the case of the Drainage and Enclosure Rates, the justices are specially invested with the power of examining the parties themselves, on both sides, on their oaths.

If the justices are satisfied of the propriety of the demand by examination of the parties before them, or if the defaulter neglects to attend before them upon the summons, they now make a *warrant* for the distress and sale of the defaulter's goods, whereupon it becomes the duty of the constable, or officers to whom the warrant is directed, to seize the goods and chattels of the defaulter. But, again, in the case of Church Rates, there is a peculiarity; the order of the two justices is not in this case an order to levy, but an order to the defaulter to pay the rate, which order is itself subject to an appeal to the justices at Quarter Sessions, who may entertain all the questions which might originally have been brought before the two justices; and in case of such appeal, the levy is suspended; but if the party do not appeal, then any one justice may issue a warrant of distress and sale of the goods of the offender, or of his personal representatives.

The *distress* may be made of goods and chattels of kinds which at common law are not distrainable. It has been decided in the case of Poor's Rate, the provisions of which are extended to the other rates on the same basis, and the reasoning upon which appears to be applicable to all levies of rates, that the distress is in the nature of an execution, and that wearing apparel, tools of trade, money, and beasts of the plough, may be distrained and sold, although there are other distrainable goods of sufficient value to be found on the premises. Where the goods are of doubtful value, and enough has not been distrained at first, a second levy may be made under the same warrant to supply the deficiency. In the case of the Poor's Rate, and the other rates on the same basis, if the defaulter die after the warrant has been granted, his goods cannot be distrained in the hands of his executor or administrator until the latter has been summoned: in the case of the Church Rate, the warrant of the one justice operates equally against the goods of the offender in his own hands or in the hands of his executor or administrator. Ordinarily the distress under the warrant may be made either in the parish or district for which the rate was made, or in any part of the county or jurisdiction of the justices granting the warrant; but if a sufficient distress cannot be found in the same county or jurisdiction of the justices, then, upon oath of the fact, a justice of any other county may certify the fact on the original warrant (called 'backing' the warrant), without

The Collection and Levy of Rates.

this justice being in any way answerable for the legality of the original warrant, and thereupon any goods of the defaulter may be seized and sold in the latter county.

The execution of the warrant of distress and the sale of the goods, and the *costs* of the levy and sale, are governed by the general Statutes, 27 Geo. II., c. 20; 57 Geo. III., c. 93; and the 7 & 8 Geo. IV., c. 17.

—levy notwithstanding appeals;

Formerly, *pending an appeal* against a rate, great difficulty was experienced in collecting it, and the officers could only levy it at the peril of an action of trespass, if the determination of the appeal should eventually be against the rate. It was not till the beginning of this century that overseers were relieved from this danger with regard to the Poor's Rate. By the 41 Geo. III., c. 3, the officers are enabled to recover the Poor's Rate, notwithstanding an appeal, from all the persons rated excepting only the appellant; and as regards the appellant himself, they are enabled, notwithstanding his notice of appeal, to recover the same sum as he or any occupier of the same premises was rated at in the last effective rate.

—after amendment;

Where a Poor's Rate has been amended, the sums determined by means of such amendment are recoverable as if they had been inserted in the original rate.

—after rate quashed;

Even when a Poor's Rate has been wholly quashed on appeal, the sums rated in it are nevertheless to be levied and recovered as if there had been no appeal, and the sums received or levied are to be taken on account of the next effective rate.

But there is a provision which appears to be wrong in principle, and incapable of operating otherwise than partially where a whole rate is quashed, namely, that the Court may order any sum charged on any person, or any part of such sum, not to be paid; whereupon proceedings to recover the sum so ordered not to be paid are forbidden.

—by commitment to gaol;

If there be no distress for the Poor's Rate within the parish, the overseers are not bound to avail themselves of their power to levy elsewhere, within the county or out of the county, but the defaulter may be committed by warrant of two justices to the common gaol of the county until payment of all arrearages.

—levy on persons substituted.

Where owners are rated instead of the occupiers, a payment of the rate may be enforced against such owners or their goods and chattels in the same manner as against an occupier; nevertheless the goods and chattels of the occupier on the premises are liable to be distrained and sold for the rate made on the owner, to such extent as it may have fallen in arrear during the occupancy of the occupier, and so that the sum levied does not exceed the amount of rent due from the occupier. Thereupon the occupier is entitled to deduct the amount paid by him or levied on him, and the costs of the levy, out of the rent payable by him to the owner. The

RATING.
The Collection and Levy of Rates.

occupier of course is not liable, in the case of default of distress for his landlord's rate, to be committed to gaol.

Where the rate on the Tithe Commutation rent-charge is made on the tithe-owner, it may, nevertheless, be levied upon the goods, but not against the person of the occupier of the land, who may recoupe the amount from the rent next payable to his landlord, and his landlord may deduct the amount from the rent-charge payable to the tithe-owner.

With regard to all the above observations as to distress on occupiers, whatever is said of the Poor's Rate, applies to the GAOL FEES' RATE, the HIGHWAY RATE, the LIGHTING and WATCHING RATE, the COUNTY RATE, BOROUGH RATE, and BOROUGH WATCH RATE; and so of commitment in default of distress. The remarks, as to levy of rates imposed upon owners instead of occupiers, apply only to Poor's Rate and Highway Rate. The remarks, as to recovering immediately from the occupier, the rates imposed on the owner of the Tithe Commutation rent-charge, apply to all local rates and charges whatsoever.

—enforcement by decree and sale of lands;

For recovery of the SEWERS' RATE, most stringent remedies are given. If any person assessed for any lands,—freehold, copyhold, or customary, or any tenements or hereditaments, do not pay his lot or charge according to the ordinance of the Commissioners, the Commissioners may *decree and ordain* those *lands*, tenements, or hereditaments from the owners and their heirs to any other person, for term of years, term of life, in fee simple or in tail, or for such other estate and interest as the owners had in them. The decree and ordinance thus made by the Commissioners binds every person who at the time of making it had any interest in the property, and their heirs and feoffees. Such decrees or ordinances are not to be in anywise reformed, unless by authority of Parliament; and they bind the lands, tenements, and hereditaments of the king as well as all other persons.

—by fines, amerciaments, pains, &c.;

The Commissioners of Sewers may likewise punish the debtors and detainers of any collection, tax, or assess, 'by *fines, amercia-*'*ments, pains*, or other like means, after the good discretion of 'the Commissioners.'

These powers for levying Sewers' Rate do not apparently apply to the GENERAL SEWERS' TAX, the mode of levying which, when imposed in gross, we cannot discover, but which, when apportioned on individual occupiers, is to be levied by distress and sale, by warrant under the hands and seals of six Commissioners.

—enforcement by mandamus.

A *mandamus* only applies where all special remedies are inapplicable, and it accordingly appears to apply to the recovery of rates where a distress, commitment, or other special remedy cannot be applied. A mandamus has accordingly been issued to a corporation supposed to have no distrainable goods, and not capable

of being committed in default of distress to pay a Poor's Rate. The principle seems applicable to all other rates in analogous cases.

—enforcement by suit for subtraction of Church Rates.

Other processes for the recovery of local taxes are specially provided for certain rates; thus, in the case of the Church Rate, besides the modern levy by distress and sale, which has been before described, there is the ancient remedy by *suit* in the Ecclesiastical Courts. Formerly it was forbidden to proceed for the enforcement of a Church Rate elsewhere; latterly, as it has been already shown, the Ecclesiastical Courts themselves have been forbidden to entertain any suit for the mere recovery of Church Rate from any Quaker for any amount not exceeding 50*l*. Moreover, in any case where a Quaker is concerned, the Ecclesiastical Courts are forbidden to make or issue any execution, decree, or order against the person of the defendant, but the plaintiff may have execution against the goods or other property of the defendant.

In the case also of persons other than Quakers, sued for subtraction of Church Rate, the most recent enactments have diminished the stringency of the process for enforcing the decrees and orders of the Ecclesiastical Courts, by enabling a party who has been in custody for six months to be discharged upon payment of costs, and upon depositing, in the registry of the Court, the amount sued for, there to abide the judgment of the Court.

Levy of aggregate rates.

The above are modes in which the rates in independent districts are levied. The rates imposed on aggregate districts are also levied eventually off the individual persons liable, in the same manner. The whole of the aggregate rates are identified, as to collection and levy, with the County Rate, or follow it very closely. The course of proceeding generally is for the justices at Quarter Sessions first to determine on the amount of a rate; they are then from time to time to issue their warrants to every high constable within the county to collect the rate from the overseers within his division, and to pay it to the county treasurer at a time named in the warrant. Upon receipt of the justices' warrant, the high constable is to issue his warrant to the overseers, or persons acting as overseers, requiring them to levy and collect the rate, and to pay it to him within a time which he is to specify in his warrant. The overseers, or persons appointed to act as overseers, are then to raise the necessary sums of money by an equal rate upon the property rateable to the relief of the poor in their parish. This is to be levied in the manner before described for the Poor's Rate, except that the petty constable or other peace officer is to raise the rate in places where no rate is made for the relief of the poor, and also where the Poor's Rate does not apply to any place in the same manner as the County Rate does, and generally in the Northern counties where the County Rate is required to be collected by the petty constable.

RATING.

The Collection and Levy of Rates.

If the overseers or constable neglect to pay the rate at the time mentioned in the high constable's warrant, any one justice may levy the amount by distress and sale of the goods and chattels of any or all of the overseers or of the constable, either in their own parish or anywhere else in the county; and if sufficient distress cannot be found in the county, the warrant may be backed by any justice of any other county or place, and executed there. The County Rate is to be recovered against overseers and constables notwithstanding an appeal pending; but there is no power to commit overseers or constables to prison in default of a distress.

These provisions for levying the County Rate apply equally to the whole of the taxes of the *County Rate series*, page 7.

Remedies for unlawful distresses for rates.

It being a general principle that the distress for rates is in the nature of an execution, it would follow generally that the distress is not *replegiable*.

Replevin.

In regard to the Poor's Rate, and the SEWER'S RATE, the 43 Eliz. c. 2, s. 10, and the 23 Hen. VIII., c. 5, s. 11, make express provision as to the pleadings and evidence in an action of replevin; those statutes clearly render that remedy applicable to any distress for either of those rates in any case where it is wholly illegal to distrain for such rates.

In regard to other rates, there being no such express provision for a replevin made with reference to them, the remedy would, for the reason above stated, not seem to apply; and in the case of the General Sewers Tax, it is expressly taken away.

Trover.

Other remedies are,—where the distress is wholly illegal, and the object is to recover the goods or chattels, by *action of trover;*

Trespass.

where the object is to recover damages, by *action of trespass.*

Action on the case.

Where the distress is not wholly illegal, as where it is made under several warrants, one of which is defective, the remedy is by *action on the case.*

—protections against actions.

Various protections are given to justices issuing warrants of distress for rates, and to the persons executing such warrants.

In the case of the POOR'S RATE, a distress is not rendered unlawful by the subsequent quashing of the rate.

Where money is justly due for the relief of the poor, no defect or want of form, in the appointment of overseers, in the rate, or in the warrant of distress, will render the distress itself unlawful, or the party making it a trespasser.

Where money is justly due for the Poor's Rate, and distress is made for it, if the party distraining afterwards commits some irregularity, he is not on that account to be deemed a trespasser *ab initio*, but the party aggrieved by the irregularity may recover satisfaction for the special damage he has sustained, and no more; and if tender of amends be made to him before the action is brought, he is not to recover at all in the action.

The above protections are also applicable to all the rates paid out of the Poor's Rate, and to the Highway Rate.

A provision is made by the 17 Geo. II., c. 38, that if any person were aggrieved by any distress for Poor's Rates, he might appeal to the next Quarter Sessions, and the justices there might hear and determine the same. We do not understand what the effect of this appeal may be: the Court of Quarter Sessions has no power to award damages or to restore the goods distrained, nor to punish the distrainers. Perhaps the enactment might be construed to give an appeal against the warrant of distress so as to prevent the distress taking place, which, though with some violence to the language of the Act, might amount to an efficient protection. Appeal.

The enactment is extended literally to the case of distresses for County Rates by the 1 & 2 Geo. IV., c. 85, s. 3.

Lodgment and Custody of Rates.

The rate being collected or levied, there is usually a period of time elapsing before the whole of it is applied to its appropriate purposes. One of the most important considerations relating to any tax is to determine how its proceeds are to be lodged, and who is to have the custody of them. It is not the simple danger of losing the fund which is alone important, but the opportunity to increase its amount, and to make use of it, or interest by it, forms a great motive for seeking offices, to persons who have no other interest in procuring the appointment or performing the functions. For this reason it is found far the most advantageous course to have a treasurer permanently appointed, with no power to increase assessments, to remit collections, to control expenditure, or to delay payments, in short, with no other functions than the receipt of the funds and the ministerial disbursement of them, and the accounting for them.

The proceeds, however, of the Poor's Rate, Constables Rate, Highway Rate, Militia Rate, and the Church Rates, and Burial Ground Rate, are left in the hands of the overseers, constables, surveyors, churchwardens, or other officers who assess and collect those taxes.

The Lighting and Watching Rate, and the Sewers Rate, and the General Sewers Tax, are the only taxes made for independent districts for the custody of which a special treasurer can be appointed. In the case of the Sewers Rate this power is carried to a most unnecessary extent, which, if acted upon, must be injurious to the service; for the commissioners are enabled to appoint separate treasurers and expenditors for every separate and distinct valley or district within the limits of their commission.

The rates for aggregated districts (page 7) are all intended to be lodged in the custody of a special treasurer. The justices have distinct power given to them to appoint a treasurer for the general County Rate, who is to give security, and who is to have the

RATING.

The Lodgment and Custody of Rates.

custody of the rate, and of all other money forming the county stock, and whose accountability in respect of the sums lodged with him is intelligibly defined. In addition to the County Rate, this treasurer is clearly to have the custody of the HUNDRED RATE and the BURIAL OF DEAD RATE. Unfortunately, with regard to all the other rates for county purposes, the law is silent, or confused, or contradictory.

Thus the COUNTY RATE FOR SHIRE-HALLS is apparently to be lodged, not with the county treasurer, but with a person appointed specifically to keep the accounts of receipts and expenditure occurring under the provisions of the Act for Building Shire-Halls.

With regard to the COUNTY RATE FOR LUNATIC ASYLUMS, the visitors are empowered to appoint a special treasurer, probably the most convenient arrangement where more than one county or jurisdiction are united; but if the visitors do not appoint a special treasurer, it seems that the funds are to be lodged, not with the county treasurer, but with the person appointed to keep the accounts of receipts and payments under the Act for providing County Lunatic Asylums. No provision, at least no intelligible provision, is made for obtaining security for the performance of the duties of the Treasurer, or for his accountability.

It may be inferred that the COUNTY AND DISTRICT CONSTABLES' RATE is to be lodged with the county treasurer, but no provision is made for his giving security for the fund, or for his duties in respect of it, or for his accounting.

Yet it may be observed of all these rates for county purposes, that in fact the magistrates very generally make the treasurer of the general County Rate the treasurer also of the other rates. Where this is done, it is probable that the necessity for additional security is not thought of: sometimes, perhaps, security given for the general County Rate may act practically, though not legally, as a security for the additional fund brought from time to time into the Treasurer's hands by the creation of new rates. On the other hand, this very addition of funds without security must be regarded as endangering those very funds for which security is given. Where the county treasurer is so appointed, it is likely that he performs his duties as to the other rates in the same manner as he does those with regard to the County Rate, and so supplies the deficiencies in the provisions of the several Statutes.

With respect to the BOROUGH RATE, the Borough Council have the power to appoint a treasurer for the custody of the whole 'borough fund,'—the BOROUGH RATE and the BOROUGH WATCH RATE,—to take security from him, and to pay him a salary. He is to keep the whole of the general accounts of the Borough. In this case the treasurership is an annual office, and the council are required every year to make an appointment; an arrangement, we conceive, likely to be more than usually prejudicial with regard to the office of treasurer.

Accounts.

The proceeds of the rate being in the hands or under the control of those officers who are intrusted with the expenditure of them, nothing further remains but that the funds should be duly applied to the purposes to which the law has destined them.

There are two admitted principles in the law which govern the responsibility of officers for the proceeds of taxation. The first is, that none but the authority of Parliament, or a custom so long continued, and so general within the limits in which it prevails, as to justify the presumption of a law, will give authority to impose a tax, or what is equivalent to it, to impose an old tax for new purposes; or for what is again equivalent to it, to apply a tax lawfully imposed or collected to new or unauthorized purposes. This principle is so firmly held, that even in the case of the Church Rate, in which the parishioners tax themselves, a majority in vestry, or indeed the whole parish, cannot give a valid consent to the disposal of the rate in any manner not expressly provided for or implied by the existing law. The imposition of taxes not authorised by law is chiefly to be prevented by the passive but effectual resistance which prevents their being levied, or by the remedies and penalties applicable to the unlawful imposition or levy of a tax. The negative duty, not to apply a tax for an unauthorized purpose, is more peculiarly fit to be enforced by means of an account and audit. When reinforced by an efficient remedy for the recovery of balances, and where the responsible party is in solvent circumstances, it is the most simple, ready, and self-acting of all expedients for the security of the public property; and no other known administrative inquisition or inspection, and no judicial proceeding, either of a remedial or penal character, can be compared with it.

The other principle is, that what the law has empowered an officer to do for the public benefit, he is bound to do whenever a proper occasion arises for the exercise of his power. This obligation is, to a great extent, left to be enforced by means of the suggestions and claims of those individuals amongst the public who have the most urgent interest in procuring the law to be carried into effect, and by the apprehension of those penal consequences to the officer, which are contingent on the neglect of his positive duties. Nevertheless, the obligation to carry the law into effect and to exercise on their proper occasion the powers with which an officer is invested can, to some extent, be brought into operation by means of the liability to render an account. Thus, the duty to assess all the persons and property liable to a tax, the obligation to collect and levy the whole of the tax imposed, the obligation to collect and recover balances from preceding officers, or to recover penalties applicable to the same purpose as the tax, and

RATING. *Accounts.*

other items of income, may all of them be, and some of them are, enforced by means of an account and audit.

The essential requisites for the efficacy of any system of accounts are:—

1st. That the officer responsible for the balance should be himself solvent, or should afford solvent security for all the funds placed at his disposal.

2nd. That what he ought to receive should be ascertained and defined.

3rd. That what he is empowered to pay should be defined.

4th. That his account in detail should be enforceable effectually before an auditing officer, competent to surcharge, reduce, and disallow items of account.

5th. That effectual remedies be given for the recovery of the balances found.

In respect of all these matters, and as regards all the local taxes, we believe that the law will be found to be very inadequate to the protection of the public.

In this, as in other matters, the law, as it refers to the Poor's Rate, is far the most ample in quantity, in some respects the best defined, and therefore the most efficient. Unfortunately, this comparative efficiency only secures the Poor's Rate itself from some misuses; for, owing to the connexion of the parish officers one with another, and of the whole of them with the vestry, there is perhaps scarcely any irregular or illegal head of expenditure from which the Poor's Rate has been recently protected, that has not been since occasionally revived by means of the Highway Rates, or the Church Rates, or some other rate not efficiently protected by an account and audit.

Some rates not subject of account.

With regard to many of the rates, no account whatever is required. This is the case with—

The Workhouse Building Rate,
The Survey and Valuation Rate,
The Rate for Gaol Fees,
The Constables' Rate,
The Militia Rate,
And the Burial Ground Rate.

It is doubtful whether the General Sewers Tax is the subject of any statutory account.

Some rates subject to multitudinous accounts.

On the other hand, the provisions for accounting as to some of the rates are so multitudinous, the occasions for accounting so various, and some of the subjects of account so partial and casual, that the efficacy of the responsibility is necessarily diminished by the excess of legal provisions made to enforce it.—(*See* instances as to Poor's Rate, App. (A.), p. 85.)

Most rates subject to some account; viz.,

With regard, however, to most of the local taxes, there is some provision for accounting obligatory on some or all of the officers concerned in each rate, either as to some or as to all of the funds

or property, with the receipt, custody, or expenditure of which they are intrusted. We shall endeavour to instance rapidly a few of the chief defects in the law relating to the accounts for most of the local taxes.

—the Poor's Rate;

The *persons liable* to account for the POOR'S RATE are now amply described, but their solvency is rarely provided for, except in the case of paid officers, from whom security can generally be required. The *matters* which are to be *received* and recovered, and for which an account is to be rendered, are extremely numerous (*see* App. (A.), pp. 87-90); and the obligation to account for what officers have actually received is clear; but their obligation to account in respect of what they ought to have recovered, but have neglected to recover, is not so clear, at least as regards the only efficient audit to which they are subject. The purposes for which they are authorized to *expend* money are likewise very numerous (App. (A.), **28**); in some of the cases well defined, in others very indefinite; but, whatever be the legal occasions for payment, it is a rule admitting of no legal exception, —that *each payment must be necessary,* and *its amount reasonable,*—and, except where authority is expressly given by statute to incur debts,—that the payment must be made at such a period as to *charge the rate-payers of the year* in which the occasion of the expenditure arose.

As to the manner of accounting, it is left to the Poor Law Commissioners to prescribe *the form* in which accounts shall be kept; but it is presumed that they are not competent to authorize a less degree of particularity or comprehensiveness in accounts than was required by the older statutes which still remain in force. There is *no* statutory obligation to allow an *inspection* of the current accounts at any time *before audit.*

The great defect with regard to Poor's Rate is the accumulation of the provisions as to *the times and occasions for rendering of the accounts.*

The overseers, but no other officers or accountants, have to make three general accounts, besides several occasional ones which we will not further refer to.

The first of the overseers' accounts, that required by the statute of Elizabeth, is to be made four days after the end of their year of office. It is not required to be in writing, nor to be entered in books, nor signed nor verified: it may be in gross sums; the justices to whom it is rendered cannot reduce or disallow any items in it. It is still obligatory to render this account to two justices; and, on refusal, the overseer is liable to be committed to gaol until he make a true account and pay the balances due from him; but, in practice, the obligation is never regarded. When rendered, it is subject to appeal, which may be made at any time, even several years after the account has been allowed and confirmed.

RATING. *Accounts.*

Their second account is that to be rendered within 14 days after their successors are appointed, when they are to make out a just, true, and perfect account. The description of the matters in respect of which this account is to be rendered, is ample; the account is to be in writing, to be fairly entered in a book kept for the purpose, and to be signed under the hands of the overseers. This account is to be presented at special Sessions, and to be there verified by oath or affirmation, and the justices are to attest the caption of the oath. In case of a refusal or neglect to yield and verify this account, the overseer is to be committed to gaol until he complies. The first instance of the provision for anything like an effective audit was made, in connexion with this account, 207 years after the enactment of the 43rd Eliz., namely, by the 50th Geo. III. c. 49, by which the justices were enabled, if they thought fit, to examine into the matter of the account, to strike out of the account such charges as they deemed to be unfounded, to reduce such as they deemed to be exorbitant, specifying on the account, or at its foot, the items and the amount disallowed or reduced, and the cause of the disallowance or reduction. The justices were then to signify their allowance and approbation of the accounts by their signature. Notwithstanding that the statute appears to leave it to the discretion of the justices to examine into this account, the Court of Queen's Bench will compel the justices, after they have allowed an account, to re-examine it with regard to any item to which their attention has not been specifically directed. This account, like the preceding one, is subject to appeal, but this appeal must be made to the next possible Quarter Sessions of the peace. Also, if the overseers are aggrieved by any disallowance or reduction in their accounts, and if they first pay over to their successors what they admit to be due, and enter into recognizances, they may appeal against the disallowance or reduction to the next Quarter Sessions.

If any overseer remove from his parish before the expiration of his year of office, he is to make out this account before such removal.

There is a third account, which the overseers as well as all other persons who have the receipt or custody of money applicable to the poor, are bound to render; this is to be rendered not less frequently than once a quarter, but as much oftener as the Poor Law Commissioners may direct. It is to be rendered, in the first place, either to guardians or auditors, or other persons appointed (*qu.* specially appointed?) to audit accounts, and it is only in default of such persons that it is to be rendered to the justices of the peace at Petty Sessions. The Poor Law Commissioners are empowered to direct the appointment, by guardians or overseers, of paid auditors, to examine, audit, allow, or disallow these accounts. The determination of the officers auditing the accounts is not subject to appeal, nor can their allowances be removed by *certiorari*. It is the account to be rendered to these auditors which

is alone complete as to the persons to account; for the previous audit by justices applied only to overseers, while the present audit applies to overseers, collectors, guardians, treasurers, and all other persons who have or ought to have the custody or disposal of moneys or property of any kind connected with the relief of the poor.

The accounts of overseers, when passed or allowed by the justices, are to be deposited with their successors, who are to permit every person assessed, or liable to be assessed, to the rate, to have *inspection* of them at all seasonable times upon payment of 6*d.*, and are to give copies of them or of any part of them upon demand and tender of payment, at the rate of 6*d.* for every 300 words. This provision would not be conveniently applicable to the quarterly accounts passed before auditors, inasmuch as those accounts are not closed every quarter, nor is the officer who renders them out of office: and, moreover, the chief object of the inspection,—the affording evidence for an appeal against the allowance,—has no existence in this case where a right of appeal is not given; nevertheless, it is manifestly desirable that an opportunity for the inspection of the accounts should be given to the rate-payers, so far as it can be done without taking the account-books out of the hands of those who ought to keep them. The Poor Law Commissioners have attempted to realize this object by requiring an abstract of the quarterly accounts to be exhibited to the rate-payers.

The accounts having been examined, and the items allowed, reduced, or disallowed, and the balance struck, it remains that *payment of the balances* due from or to the accountant should be enforced.

At this stage there is encountered the greatest difficulty as to the accounts of overseers. The justices may have allowed items in the accounts which the auditor may have disallowed, or *vice versâ*. In such cases it often occurs that a conflict of the authorities of the justices and of the auditor takes place, which as yet there have been found no practical means of terminating, for even recourse to the Court of Queen's Bench for a *mandamus* to compel the justices or the auditor, or both, to re-examine the account would not secure the object of procuring a consistent decision by both parties, inasmuch as the Court of Queen's Bench will not decide what their determination should be, but would merely compel the respective authorities to consider the matter and decide according to their judgment.

Where unanimity as to the balance cannot be secured, the success in the conflict has hitherto remained with the justices; they can enforce the payment of the balance as found by themselves, by committing the overseer to gaol. But the auditor's determination also can only be enforced through the justices by means of a warrant of distress, by detainer of the defaulter, until the return of the warrant, and in default of distress, by his committal

RATING. *Accounts.*

to gaol. Where the justices contest the auditor's authority, they decline to enforce his balance as being in conflict with their own judgment; and thus, in fact, many balances found by auditors against overseers have been carried on in the accounts for several years. In these cases, so far as the overseers are concerned, the auditor's decision has been wholly inoperative, and the carrying on of the balances, which the auditors have not been able to abandon, in the successive overseers' accounts, has only served as a memento to each succeeding overseer of the impunity with which an auditor's decision may be disregarded. We think that there is little ground for doubt that in the cases of conflict which have come to our knowledge, the decisions of the auditors have generally been the more correct. The justices have not efficient powers to examine into the account—they merely see, at a meeting at special sessions, the books of a whole year, without vouchers. No other officers besides the overseers are present with accounts which might serve to check those of the overseers, and it is a well-known fact that the accounts are allowed usually without a question, and almost universally without any searching scrutiny. On the other hand, the auditor feels himself bound to give attention to the individual items; to inform himself, specifically as to the law on the subject of each; he has the motives to scrupulous and deliberate action which the possession of an office held by the tenure of competency and good behaviour is calculated to inspire; and he has before him ample means in the vouchers he is to examine, and in the connected accounts of the other officers accounting at his audit, to scrutinize and collate each item, and thereby to form an accurate conclusion in respect to it. Bearing in mind that the law has also given to him a more extensive range of functions in the audit of accounts than to the justices, that it submits to his authority treasurers, guardians, elected and ex-officio, and other officers, generally of higher station, socially and officially, than the overseers, and often including members of the magistracy itself, as well as all other persons, trustees of public property, executors of deceased officers, and the like, who may become responsible for property connected with the poor; considering also the facts that in regard to this quarterly audit the justices are postponed to the guardians, and to all special auditors, being only enabled to act in case none of these exist; that this audit is without appeal, and that minute and specific remedies for enforcement of the balances are provided instead of the summary one of imprisonment, we conclude that as his authority is so much more special and more complete, it was also intended to give to the auditor an authority more conclusive than that given by the older statutes to the justices. Whatever may, however, have been the views of the legislature upon the subject, we think there can be no doubt that the present conflict of the authorities is extremely prejudicial, and ought to be removed.

RATING.
Accounts.

With regard to persons other than the overseers, as the justices have no authority to receive their accounts, there is of course no original ground of conflict between the justices and the auditor; but disputes arising originally with relation to the overseers constantly involve the connected accounts of the other officers, and have sometimes disinclined the justices to enforce the auditor's decisions in regard to the latter.

—the Constables' Rate;

We have before remarked that *no account or audit* is provided for the CONSTABLES' RATE. When this rate was reformed by the 13 and 14 Car. II., it was only authorized with the view of reimbursing the constable, headborough, or tithingman for expenses which he had already actually incurred, and which were approved by the churchwardens and the inhabitants of the parish before the rate was granted. The check of an account and audit, which indeed at that period had not been effectually applied to the Poor's Rate or any other rate, was in this case almost unnecessary, so far as the object of preventing the misappropriation of the rate was concerned; but even in those times changes of tenancy, fluctuations in the condition of individual rate-payers, and occasional deaths amongst them, must have made it impossible to calculate upon collecting the exact sums assessed, and must have made it necessary in most cases to lay the rate for a larger sum than would be just sufficient to reimburse the constable; for this excess, at least beyond the amount required for the strict purpose of the rate, some account was necessary. But there was at all times a danger, which in fact was frequently realized, that the inhabitants might sanction the application of the Constables' Rate to unauthorized purposes, such especially as not being provided for by any regular fund, the population of a parish were often likely to take an interest in; thus it is common to find the parish constable acting the chief part, and his rate supplying the contingencies required in the apprehension and prosecution of witches, of popish recusants, of profane swearers (in regard of which last, however, the constable perhaps had authority to incur expense), of tavern-haunters, of common scolds, lewd women, in the burning out of houses of ill repute, the extirpation of vermin, and other similar matters. The modes of misappropriation of this rate, if any exist, must certainly have changed their character in more recent times. The constables who levy it are not bound to account, and we have no evidence that the rate is misapplied: but as in the northern counties it is a rate of considerable amount, being the fund out of which the County Rate is paid, it is certainly a subject upon which positive information is much to be desired.

The application made of the rate subsequently to the statute of Charles II. to the payment of the County Rate, and all the other aggregate rates (page 7), has changed its character essentially. It is no longer a rate to reimburse expenses already incurred and ap-

RATING. *Accounts.* proved, but is essentially a prospective rate, the subsequent proceeds and application of which quite as much require to be ascertained and checked by an account and audit as those of any other rate.

—the Highway Rate; The provisions for an account of the HIGHWAY RATE appear to us to be generally insufficient for the protection of the fund. The directions of the statute as to keeping the books of account are ample, but the provisions for auditing the account, and for disallowing illegal or excessive expenditure appear in law to be wholly insufficient, and are, we believe, found to be so in practice.

As to the *persons liable* to account—surveyors, assistant surveyors, and district surveyors are, within 14 days after the appointment of their successors, to make up, sign, and balance their accounts, and to verify them before justices at special sessions.

Every Board for the repair of highways is, at the expiration of their year of office, to present to the vestry, copies of their accounts, and minutes of their proceedings during the preceding year.

Every collector is to deliver to the surveyor, accounts in writing of the moneys received by him, and of the moneys due, but not received, with a list of the persons who have neglected or refused to pay their rates.

No express provision is made for the accounts of the treasurer.

The *matter* of account as to this rate is very simple; the *receipts* are confined to the produce of the rates, a few penalties, and the tools, materials, and implements provided for the repair of highways. The *payments* are merely for the repair of highways, for law expenses, and for salaries of paid officers; but if the law expenses would cause the Highway Rate to exceed the amount limited for that rate, *an additional rate* may be made, specifically to defray such law expenses, which is to be imposed and raised, and is probably to be accounted for like the ordinary Highway Rate. In the same manner, if it be required to incur any expense for the purchase of land, *an additional rate* may be made specially for that purpose, which is expressly required to be accounted for like the ordinary Highway Rate.

The surveyor is specifically required to set forth the following details of his expenditure:—

— a particular account of all money paid by him;
— to whom;
— on what occasion;
— for what work;
— in what place;
— on what day.

If the surveyor neglect to provide books, or neglect to enter every sum received or paid by him within a week after the fact, he is liable for each default to a penalty of 5*l.*; his *current*

RATING.
Accounts.

account is to be at all times open to the *inspection*, gratis, of every rated inhabitant, who may take copies or extracts from the books, without payment.

The mode of *rendering* the accounts differs for each class of officers.

The surveyor, district surveyor, or assistant surveyor, having made up and balanced his accounts up to the day ending his year of service, is to lay them before the parishioners in vestry within 14 days after the election of his successors; these parishioners have no power given to them to reduce or disallow, or in any way to operate on these accounts; but if they think fit they may order an abstract of such accounts to be printed and published. The surveyor is also, within the said 14 days, to verify his accounts before the justices at a special sessions; the justices may examine him as to the truth of them, and if any person chargeable to the rate makes any complaint as to them at the time of this verification, the justices are to hear the complaint, to examine the surveyor upon oath, and make such order on the matter as to them seems meet. This is obviously no effective audit; it implies no detailed examination of the accounts, and no vouchers or connected checks; the conclusive evidence seems to be the surveyor's own oath, and the nature of the justices' authority, and the effect of the order which they are directed to make upon any complaint is quite indeterminate, and likely therefore to be exercised with great hesitation. The surveyor having so verified his accounts is to deliver them to his successor in office, together with the sums of money due from him, and all tools, materials, and implements provided for the repair of highways: if he neglect to do so he is liable to forfeit 5*l.*, and double the money due from him. The surveyor is also bound to make an annual return to justices at a special sessions held for highways next after the 25th March of each year:

— of the highways which have been repaired;
— with what materials;
— at what expense;
— and of the amount levied during the time he was surveyor;

but this return has none of the character or consequences of an account.

A Board for the repair of Highways have very different duties in regard to their accounts. They may employ a clerk to attend the Board, and to keep their accounts and minutes. At the expiration of their year, and before, or on, the day for the election of surveyors, they are to present to the vestry of the parish copies of their accounts and minutes of their proceedings for the preceding year. Here the responsibility of a Board for the superintendence of Highways appears to end. The parish have no authority over the accounts so presented; there is not even a verifi-

RATING. *Accounts.*

cation of these accounts before magistrates, still less an opportunity for complaint of any rate-payer, or for an examination on oath. The parish cannot, as in the case of the surveyors' accounts, even order an abstract of the Board's accounts to be published. The only consequence apparently contemplated as the result of this production of a copy of accounts to the vestry on or before the day of election is, that if the objections to such accounts are sufficiently patent as to be seen and apprehended at once, the parishioners may use their knowledge to guide them in the selection of officers on the same or the subsequent day. There is no provision for the recovery of the balances admitted on their accounts to be due by a Board of Highways, and generally this body is the most irresponsible in respect of the moneys and powers intrusted to them of any officers of recent institution.

The paid collector of Highway Rates, on the other hand, is a very dependent and well-checked officer, liable to instant dismissal at the will of the surveyor, and required at what time and in what manner soever the surveyor may direct, to deliver to the surveyor true and perfect accounts in writing of all the moneys he has received, a list of the names of all persons who have neglected or refused to pay their rates, and an account of the moneys due from each of them. If he refuse to deliver this account to the surveyor, he is liable to be summoned before two justices, and to be fined 20*l.*: failing payment of which, he is to be committed to gaol or to the house of correction to hard labour, for four months, or until he deliver a true and perfect account,—the surveyor himself being subject only to a fine of 5*l.* if he neglect to deliver his annual account. The collector merely accounts in this manner to the surveyor, and renders no account before justices or to any other authority. Having accounted to the surveyor, he is to pay to the surveyor at such time and in such manner as the surveyor may direct, all moneys due from him; in default of which they are to be recovered by distress and sale of his goods and chattels; and if sufficient distress is not to be found, he is to be committed to gaol or the house of correction to hard labour, for a period not exceeding six calendar months, unless he previously pays his balance, or compounds with the surveyor for it. Supposing the surveyor to be temperate and vigilant in the use of these powers over the collector, the responsibility of the latter would be complete enough under the Highway Acts; but, generally speaking, the surveyor is not to be expected to be a very competent auditor, and he has no fixed duty or responsibility with regard to the collector's defaults; above all, there is no fixed time and manner at which the inspection of the collector's accounts would take place as a matter of course.

These liabilities, therefore, as regards the collector, are more remarkable for their disproportionate stringency than for their effectiveness, and they seem to have been made harsh in the case

RATING.
Accounts.

of this officer, whose duty is one merely of receipt, without discretion as to expenditure, in order to seem to compensate for the extraordinary laxity (in so recent a statute, 1835) shown towards all those other officers who have the expenditure and disposition of the rate, and therefore large discretions to abuse.

Generally it may be observed of this rate, that the provisions for the account fail in three main points;—security for the solvency of the accountant;—definiteness of the occasions for payment;—appropriate machinery for audit; and, as regards a Board for Highways, in a fourth essential, namely, remedies for the recovery of the balance.

Accordingly there is no rate which appears to be so frequently misapplied as the Highway Rate.

—the Lighting and Watching Rate;

Though the Act for Lighting and Watching was passed two years before the Highway Rate (in 1833), and its provisions as to accounts served as the model for those under the Highway Act, they are much more complete, impartial, and temperate.

As to the *persons liable*—there is a gradation of officers concerned with the Rates;—

—the inspectors, who order the rate and control its expenditure;

—the overseers, who have to impose and raise the rate, in the same manner as Poor's Rate;

—and the treasurer and other officers appointed by the inspectors, who have the custody or subordinate application of the rate.

The provisions of the Act are framed upon the proper principle of making the inspectors, who have paramount control in the disposition of the funds, the primary accounting parties.

We speak, however, of the overseers first, as the most readily disposed of; they are merely required to keep the account of the rate they levy for Lighting or Watching, or for both purposes, separate and distinct from their accounts of rates levied for the relief of the poor. But no provision is made for overseers rendering these accounts; and as they are not Poor's Rates, they are not to be accounted for either before justices or before the Poor Law auditors. As regards any summary remedy, therefore, by means of an account and audit, the overseers are quite irresponsible.

The inspectors are to enter in their account-books true and regular accounts, the *matters* of which are very few and simple; their *receipts* are confined to the rate, and in the cases where the districts are watched, to certain fees and allowances usually paid to constables, and certain fines and forfeitures recoverable under the provisions, and applicable to the purposes, of the Act; their *payments* are limited to the incidents of Lighting and Watching. The inspectors are to keep books, making regular entries in them, and these books of their current accounts are to be open at all

RATING. *Accounts.*

reasonable times to all inhabitants [and other rate-payers?] rated to the relief of the poor, who may take copies or extracts from them gratis; every inspector being liable to a forfeiture of 5*l.* for not permitting such inspection, copying, or extracting. The inspectors are to render their accounts annually, and give notice to the church-wardens of their readiness to produce them, upon which 10 days' notice is to be given of a vestry to be held, at which the inspectors are to produce both their accounts of all moneys received and paid by them, and vouchers for their accounts; and the inspectors, or some two of them, are to verify on oath a duplicate or copy of their accounts before two justices. This duplicate or copy is to be open at all reasonable times for the inspection of all parties interested. This production of accounts before vestry, and verification before justices, evidently constitute no efficient audit,—neither the vestry nor the justices having any authority to make or receive any objection to the account. No provision exists in any way for the reduction or disallowance of these or of any other accounts relating to this rate; and there is no remedy to recover balances from the inspectors although admitted to be due upon the face of their own accounts.

The treasurer and all other officers appointed by the inspectors are also enjoined to keep true and perfect accounts, in writing under their hands,

—of all matters and things committed to their charge,

—and of all moneys received by them by virtue of their offices,

—and of all moneys expended and disbursed by them,

—and for what purposes,

—together with proper vouchers for those payments. Their accounts, therefore, are more detailed and comprehensive than those of the inspectors, but still they do not add to the responsibility of the inspectors, as they are to be rendered only to the inspectors themselves, and not to the vestry or any other persons. The inspectors call for these accounts at such times as they may think proper; and if the treasurer or other officer neglect to deliver them, he is to be proceeded against by complaint before two justices, who may hear and determine the matter in a summary way, and commit the offender to gaol for a period not exceeding three months, or until he delivers a true and perfect account. The treasurer and other officers are to pay all money due from them to the treasurer for the time being, or to such persons as the inspectors may appoint to receive it; on non-payment, the balances are enforced by distress and sale, or by commitment of the offender to gaol until he pays or compounds with the inspectors.

The provisions as to this rate are defective as to security for solvency in the officers who have the disposal of the rate, in the total absence of accountability of the overseers, in the want of appropriate officers for auditing the accounts of the inspectors, treasurers, and other paid officers, and in the want of a remedy

for the recovery of balances due from the inspectors. These defects, however, are less important than the defects in the Highway Rate, because the rate is less extensively levied and very much inferior in its aggregate amount. RATING. *Accounts.*

The MILITIA RATE is another rate which the overseers are authorized to levy, but in respect of which they are subject to no responsibility by way of account and audit. —the Militia Rate;

The CHURCH RATE, though the oldest tax subsisting in its present form, is one of the worst protected;—the jealousy entertained by the common lawyers and the courts of common law towards the jurisdiction of the spiritual courts having prevented all progress in the application of improved doctrines to the account and audit of Church Rates. —the Church Rate;

The only persons concerned in the levy and expenditure of Church Rates, and therefore the only *persons liable* to account in respect of them, are the churchwardens, who are a corporation in law for the receipt and holding of property for the use of the church; the *matter* of their account consists of a few details, namely, the *receipt* of the balances of Church Rate and of other money and property of the church in the hands of their predecessors, and a few penalties, chiefly connected with the service of the church and the observance of the Sabbath, and alms collected at the churches and the chapels within the parish during the reading of the offertory; their *payments* are only such as are connected with the repair of the church, including its ornaments, the making provision for the service of the church, and, by statute, the providing of register-books, and of a chest for keeping them. It is held that if the churchwardens have laid out the parish money imprudently and improvidently, yet if it be truly laid out, and without fraud or deceit, they must be reimbursed again, because the parish hath made them their trustees. It is said that if the receipts of preceding churchwardens have fallen short of their disbursements, their successors may pay the balance and place it in their accounts; but this seems to be reduced by modern decisions to the case where there was a rate uncollected in the time of the preceding churchwardens, sufficient to reimburse them. At the end of the year, or within a month after at most, they are to give a just account of such moneys as they have received, and of what they have particularly bestowed in reparations, and otherwise for the use of the church. This account is to be *rendered* to the minister and parishioners in vestry. If the outgoing churchwardens refuse to render this account, the new churchwardens may present them at the next visitation; or any parishioner interested may, by process, call them to account before the ordinary: but the Ecclesiastical Courts, though they can compel the churchwardens to account, cannot examine into the accounts or settle them. When

RATING. *Accounts.*

the accounts are produced, the oath of the churchwardens is sufficient proof of all disbursements of sums not exceeding 40*s.*; but they must produce receipts for sums above 40*s.* The *allowance* of the account by vestry is by entering it in the church book, and by the signature of those in vestry who vote for the allowance. This allowance, unless some fraud be afterwards discovered in the account, is final, and the churchwardens cannot be called to account again. The defects of these formalities, as pretending to be an account and audit, must be too manifest to require particular observation.

The accounts being rendered and allowed, the churchwardens are to deliver up the *balance* of money and the parish goods in their hands to the parishioners, and the parishioners are to deliver over such money and goods to the next churchwardens, by bill indented. If a churchwarden fail to deliver up any money received for the use of the parish, any future churchwardens, whether immediate successors or not, may bring an action for the money. In like manner, if the receipts of the churchwardens have fallen short of their disbursements, and their successors do not pay them their balance, the Court of Chancery, on application, will make an order for such payment.

—the Sewers Rate;

As regards the SEWERS RATES, and the *persons liable* to account for them,—

—the Commissioners, who decree the rates, superintend their collection, and have the entire disbursement of them, are not required to make or render any account whatever;

—but the collectors, treasurers, and receivers are to make account to the Commissioners, who may cause separate and distinct accounts to be kept of the rates made and received within the separate and distinct levels, valleys, and districts, and of the payments and disbursements in respect of the same places.

The *matters* of account are few and simple; the *receipts* consisting merely of the proceeds of the rates, of the fines imposed by the Commissioners, and of costs received by the Commissioners; the *payments* are only those incidental to the execution of the two statutes under which the rates are made. The officers liable to account are to render true, exact, and perfect accounts in writing under their hands, as often as the Court of Sewers may require them, and deliver, either to the Court or to any persons appointed by the Court, proper vouchers for their accounts. If any officer refuse to do so for the space of 14 days, the Court of Sewers may commit him to gaol or to the house of correction until he hath rendered a true and perfect account, and delivered up the vouchers pertaining thereto. The *balances* in the hands of any officer are to be paid to any person that the Court may empower to receive them; and if any officer refuse or neglect to pay them to such person for the space of 14 days after being

required to do so, the Court of Sewers may, in a summary way, levy the money by a distress and sale of his goods and chattels; and if sufficient distress cannot be found, may commit him to gaol or to the house of correction until he has paid the money, or has compounded with the Court in respect of such money, and paid the composition into Court according to their directions. But if an officer be so committed on account of his not having sufficient goods and chattels, he is not to be detained longer than six calendar months.

This account and audit is among the number of those which have only the effect of enforcing the accountability of mere receivers, and it provides no check where in the nature of things it is most wanted,—on the discretion of those who disburse and dispose of the rate.

—the General Sewers Tax;

It is certain that the Commissioners of Sewers are no more bound to account for the GENERAL SEWERS TAX than they are for the Sewers Rate. It is moreover doubtful whether the provisions relating to the accountability of subordinate officers for Sewers Rate are extended to the General Sewers Tax; if they be not, then there is no statutory obligation on any person to account for this tax; but if those provisions be so extended, the above observations as to the Sewers' Rate will apply in all respects to the General Sewers Tax.

—the County Rate;

The county justices who impose the COUNTY RATE and expend it, are free from all liability to account and audit.

Their officers for receipt and custody are, however, required to make and keep accounts; and the account of the treasurer's receipt and expenditure, being in fact the account of the justices' receipt and expenditure, is (or at least a true and accurate abstract of it is) to be published once a year in some one newspaper usually circulated within the county.

The persons directly liable to account, are

—the high constable, petty constables, and other persons employed to collect and levy County Rate.

—the county treasurer, and the special accountant, for receipts and payments relating to county bridges.

The *matter* of account, as respects the high constable, is merely for the receipt or non-receipt of County Rate.

As regards the treasurer, the *matters* of account are more complicate; *his receipts* consist of all money constituting the county stock, the most frequent source of which, after the rate, are penalties levied on offenders. His *payments* are much more various, extending to all the purposes of the separate rates, consolidated by the 12 Geo. II., and to all the other purposes to which County Rates have since been declared liable. He is to deliver a true and exact account, entered in a book, of every sum

RATING. *Accounts.*

received, and of every sum paid by him, distinguishing the particular uses to which the sums paid have been applied, producing, with the account, proper vouchers for it to the justices, at every General or Quarter Sessions; and if he be required to do so, he is bound to verify his account on oath. His accounts and vouchers are then to be deposited with the Clerk of the Peace, and may be *inspected,* as occasion may require, by any justice of the peace. As before observed, the treasurer is once a year to publish, in some one newspaper circulated in the county, a true and accurate abstract of his accounts of receipt and expenditure; if he fail to do so, he is liable to forfeit 50*l.* for every omission. There is no statutory remedy to recover *balances* from the treasurer. It is obvious that this render of the treasurer's account to the justices is merely information to them as to their own expenditure, and is no check upon it. It is merely a security that the fund shall be faithfully disposed of in obedience to their directions, not that it shall be lawfully disposed of.

The high constable, petty constables, and other persons employed to collect and levy County Rates, are only accountable when they have moneys applicable to the purposes of the rates in their hands. If they then be required to do so, they are to account for it before the justices at General or Quarter Sessions, in the same manner as treasurers are required to account. Of course, however, this account cannot distinguish the uses to which the rate has been applied, as these accountants have nothing to do with the application of the rate. If any of these persons refuse to account, the justices may commit them to gaol until they render a true account. The accounts of high constables, (but not of other persons connected with the collection of the County Rate,) when passed, are to be deposited with the clerk of the peace, and kept by him with the county records, and are to be open to the inspection of the justices in the same manner as the account rendered by the treasurer. If it appear by the account of any of these persons that any money remains in their hands due and not disposed of, the justices may order them to pay it into the hands of the treasurer, and if they refuse or neglect, the justices may commit them to the common gaol, until they have made full payment.

The accountant appointed to keep accounts of receipts and payments for county bridges, is to keep them exactly and regularly in a book, separate and apart from all other accounts, and he is to adjust and settle his accounts in such a manner that it may easily be seen at all times,

—what interest on money borrowed is growing due,

—what principal money has been discharged,

—and what remains due.

He is to deliver the books adjusted and settled by him, into court at any (?) General or Quarter Sessions to be held for the

county, and the justices there are carefully to *inspect* the account. No provision exists for verification of these accounts, or for recovering balances resulting from them, the officer being in nowise concerned in the receipt, custody, or expenditure of money, but being merely a book-keeper.

RATING. *Accounts.*

The provisions as to the custody of the COUNTY RATE FOR LUNATIC ASYLUMS, and the accounting for it, are difficult to comprehend.

—the County Rate for Lunatic Asylums;

As in the case of the general County Rate, the justices who direct the raising and expenditure of the moneys are made subject to no account; but the difficulty is not as to them.

There is distinct power to the visitors of the asylum to appoint a treasurer, and some passages in the Act seem to imply that he is to have the custody of the rate and to receive certain penalties.

On the other hand, power is given, not to the visitors, but to the justices at Quarter Sessions, to appoint an Accountant; and there are other provisions which imply that he is to have the custody of the money and its application under the directions of the Act (see App. A. **249** *note,* **268, 291**).

The treasurer of the asylum is expressly invested with the receipt of the penalties applicable to the use of the asylum, but no provision whatever is made for the treasurer giving security, or keeping or rendering accounts, or for his payment of balances.

The special accountant is not only to keep the books, but, as we have observed, is referred to as having the custody and application of moneys applicable to the purposes of the Act: the *matter* of his account is simple, consisting of the *receipt* of the rate, the receipt of moneys for the maintenance of lunatics, and perhaps of the penalties of which the treasurer is directed to have the custody: the *payments* extend no further than those incurred in providing the asylum and for contingencies. He is to keep his account exactly and regularly in such manner that it may easily be seen

—what interest is growing;

—what principal money has been discharged;

—and what remains due.

He is to deliver his books of account, adjusted and settled in the form required, into Court at every general Michaelmas Quarter Sessions, or at any other time when the general Annual Sessions are held. The justices at those Sessions are required carefully to inspect such accounts, and to make such orders for carrying the purposes of the Act into effect as to them may seem meet. Though it is implied that this accountant is to have money in his hands, and to make application of it, no provision is made for the recovery of a *balance* from him; but if at any time it appear to the justices that he has neglected the order of the justices auditing the accounts, and that he has not duly applied the money in his hands

RATING. *Accounts.*

to the objects directed by the Act, he is to forfeit double the amount of the money so not applied; which forfeiture is to be recovered by distress and sale of the accountant's goods and chattels, and is to be paid to the treasurer of the asylum, to be applied to its use.

It appears to us that nothing can be more rude and incomplete. There is, as in the case with all the other County Rates, no check on the expenditure; the only checks are on the mere book-keeping of subordinate officers. There is no security for the solvency, either directly or by surety, of the treasurer or of the accountant. Certain details are prescribed as to the mere keeping of books, but none of any process that could properly be called an audit, even of the subordinate officers' accounts; and the only approach to a provision to secure balances is made applicable only to an officer, the accountant, of whom it is, after all, problematical whether he is to receive in that character any moneys whatever.

—the County Rate for Shire Halls, &c.

The provisions as to accounts for the COUNTY RATE FOR SHIRE HALLS closely resemble the last, except that there is no provision for the appointment of a treasurer as such, while the grounds for supposing that the accountant is to have the custody and application of the moneys is precisely the same in both cases.

The accountant, appointed by the justices at Quarter Sessions, is to keep books, separate from all other accounts, and to enter exactly and regularly all receipts and payments made under the authority of the Act, and to adjust and settle the account, so that it may easily be seen

—what interest is growing due;

—what principal money has been discharged;

—and what remains due.

He is to deliver his book so adjusted and settled into Court at every Quarter Sessions for the county; and the justices there are carefully to inspect the accounts, and make such orders for the purpose of carrying the Act into execution as to them may seem meet. There is no provision for the recovery of balances; but if it appear to the justices at Quarter Sessions that the accountant has not duly and without delay applied all the moneys in his hands to their proper purposes, he is to forfeit a sum equal to one-half the amount of such money, and in default of sufficient distress for the penalty he may be committed to gaol for any time not exceeding three months.

All the defects relating to the accounts of the rate for County Lunatic Asylums, excepting as to the confusion about the treasurer, apply to this rate.

—the Police Rate, or the County and District Constables' Rate.

It would appear, but it is not clear, that the POLICE RATE, or COUNTY AND DISTRICT CONSTABLES' RATE, is to be lodged with the treasurer of the county. The justices of the county who impose this rate and direct the expenditure are absolved from accounting

RATING. *Accounts.*

for it. There are apparently three sets of persons, and perhaps four, liable to account for moneys applicable to the purposes of this rate.

First, as to the treasurer of the county: When the expenses of the county or district constabulary were to be defrayed out of the County Rate, he was distinctly required to account for the portion of rate received for that purpose. Now that a distinct and separate rate is to be raised for the purpose, he is still apparently to receive it; and though it is not expressly provided that he shall account for this, as before for the County Rate applicable to the same purpose, it is most probable that he would be held liable to account for it; but there is no indication that he is to account in the same manner for the fees and allowances of constables, which he is also to receive, or for the fines recovered under the Acts, which he is likewise to receive. He is to keep his account separate from other accounts, with separate accounts also of the *receipts* and of *payments* connected with every division, and with every set of adjoining divisions, having separate establishments of constables. He is to produce his accounts to the justices at every Quarter Sessions of the county, who are to examine and audit them, and their allowance of them is declared to be a sufficient release and discharge to him. When his accounts have been allowed and passed, they are to be deposited with the clerk of the peace of the county, to be kept with the county records.

Secondly. The county and district constables and local constables are to account to the treasurer of the county or other person appointed for the purpose, for the fees and allowances settled to be paid for the performance of occasional duties by the constables, and they are to pay them over to the treasurer or person appointed to receive them. The manner of making this account, the time at which it is to be done, the mode of enforcing it, and the mode of enforcing the payment of the balance, are not specifically provided for: but,

Thirdly. The justices of each division are required every quarter of a year to cause an account, with proper vouchers, of all the above fees and allowances to be delivered to the treasurer of the county or other person appointed to receive them. The justices have no further duty with regard to these moneys.

Fourthly. It is required that reasonable allowances shall be made to the chief constable, in addition to his salary, for extraordinary expenses necessarily incurred by him and by the constables under his orders, in the apprehension of offenders, and in the performance of their other duties, 'which *allowances* shall be 'examined and audited by the justices in Quarter Sessions.' Who is to make this account in no way appears. The chief constable could account for his *expenses*, and the treasurer could account for the *allowances* he pays in reimbursement of them to the chief constable. Probably, however, the chief constable's account of

RATING. *Accounts.*

expenses, rather than the treasurer's account of the allowances, is here meant, in which case the chief constable has to make two accounts.

—the Borough Rate.

Generally the provisions as to the custody of the BOROUGH RATE, and as to the account that is to be rendered in respect of it, very closely resemble the provisions relating to County Rates.

The borough council direct the making of the rate, and have the disposal of it, but are not in any way required to answer for it by way of account and audit. Their separate orders, however, for payment of money out of the borough fund may be removed into the Court of Queen's Bench by certiorari, and may be disallowed or confirmed there;—a provision having none of the efficacy of a regular account, inasmuch as multitudes of illegal payments may be made, not of sufficient importance to justify resort to the remedy; while the remedy itself would be very vexatious in its application to just payments proposed to be made, but which might be hung up during the trial of the validity of the order. The remedy, moreover, does not apply to illegal remissions of the debts due to the borough, or of any of its lawful claims.

The overseers and other persons making a separate Borough Rate, also seem not to be liable in any way to account for it, though the proceeds of their rates must of necessity vary greatly, from the sums required by the borough council.

The treasurer, whom the council appoints, and who gives security for the due execution of his office, which however is an annual one, is the only person accountable for the Borough Rate; the *matter* of his account may in some cases be very various, consisting of the *receipt* of all moneys and property constituting the borough fund, including the Borough Rate, the Borough Watch Rate, if one be made, and certain fines and penalties. His *payments* are as various as the purposes of the borough fund or Borough Rate (App. (A.) **28**). He is to distinguish in his accounts the several matters for which receipts and payments are made, and the books containing his current accounts are to be open at all reasonable times to the inspection of any of the aldermen or councillors of the borough. In the months of March and September in every year he is to submit his accounts for the half-year preceding the first day of such month of March, or month of September, with all vouchers and papers relating to such accounts, to auditors, for the purpose of being examined and audited. These auditors consist of two burgesses, elected on the 1st of March in every year, by the burgesses, in the same manner as councillors are elected: they are to have the qualification of councillors, but they must not actually be of the council, nor town clerk, nor treasurer of the borough. To these two auditors the mayor is also, on the 1st of March, to add some member of the council, whom he is to name, and these three persons are to receive the treasurer's accounts, and to examine

and audit them. If the accounts be found to be correct, the auditors are required to sign them. If this is a mere examination of the correctness of the book-keeping, it may be a security against malversation by the treasurer, but is no security against misapplication of the funds by the council. There is no power in the auditors to insert receipts or sums that ought to be received, and no power to reduce or disallow charges; they can merely refuse their signatures to the accounts, but what the result of their non-signature is to be, does not appear; and as while they refuse their signature, no *balance* can be agreed upon, the refusal of their signature seems only to produce an obstacle to the settlement of the balances. There are no provisions for enforcement of the balances admitted by the treasurer, although his office expires at the end of the year. When the accounts of the treasurer have been examined and audited, the treasurer is to make out in writing a full abstract of his accounts for the year, and to get it printed, and a copy of it is to be open to the inspection of all the rate-payers of the borough; and any rate-payer, on paying a reasonable price for a copy, is entitled to have one delivered to him, but by whom does not appear—probably by the succeeding treasurer.

RATING. *Accounts.*

These provisions are obviously defective, but their main defect is, that they do not even pretend to secure more than correct book-keeping, and are apparently not effective for that. They are not apparently in any way intended to secure the due expenditure of the borough fund.

The provisions for the Borough Rate apply in all respects to the account for the Watch Rate in boroughs, it being the same treasurer who is liable to account, in the like way, to the same parties.

—the Watch Rate in Boroughs.

OFFICERS.

The number of officers engaged in assessing, collecting, levying, and keeping of local rates and taxes, and in accounting for them, and in auditing accounts is, as the law provides for them, much more considerable than is usually supposed. There are no less than 54 different species of officers; of each species there are often several individuals of each district. Their total number cannot be ascertained from any existing documents; but those in office simultaneously cannot be less than 180,000, of whom by far the larger portion are annual officers, to be succeeded every year by a like number of new officers. Their districts and their modes of appointment vary greatly. It will probably be most convenient to set forth tabularly some of the chief facts in relation to each species of officer.

List of Officers engaged in Assessing, Collecting, Levying,

Rate.		Officers,	Period of Service.
POOR'S RATE . .	1	Churchwardens . . . . . 43 Eliz., c. 2, s. 1.	Annual . . . . .
	2	Overseers . . . . . 43 Eliz., c. 2, s. 1.	Annual . . . . .
	3	Paid Assistant Overseers . . . 59 Geo. III., c. 12, s. 17.	During the pleasure of the open vestry.
	4	Paid Surveyors and Valuers . . 6 & 7 Wm. IV., c. 96, s. 3.	For the occasion of the survey or valuation.
	5	Paid Collectors . . . . . 2 & 3 Vic., c. 84, s. 2. 4 & 5 Wm. IV., c. 76, s. 46.	During the subsistence of the Commissioners' order, and good behaviour.
	6	Justices to allow rates . . . . 43 Eliz., c. 2. s. 1. 13 & 14 Car. II., c. 12, s. 17. 6 & 7 Wm. IV., c. 96, s. 1.	During the Queen's commission.
	—	There is also at each Petty Sessions a Justices' Clerk, who advises the Justices, and acts by their direction; but who, perhaps, is not in strictness an officer. He is paid by fees. 26 Geo. II., c. 14, s. 1. 27 Geo. II., c. 16, s. 4.	During the pleasure of the Justices of Petty Sessions. 4 B. and Adol. 863. 1 Nev. and Man. 591.

KEEPING, EXPENDING and AUDITING of LOCAL RATES and TAXES.

Number for each District.	Number of such Districts.	Number of Officers existing together in England and Wales.
2 at least, sometimes 3 or 4, for each parish, with additions for chapelries and new church districts.	10,810	21,620, besides chapelwardens and wardens for new church districts.
2, 3, or 4 for each parish or township; sometimes, by Local Act, 8, 12, or more.	14,616.	29,232, without addition for the cases where there are 3, 4, or more.
1 or more for any parish or township in which the vestry may see fit to appoint.	. . .	5,270, according to returns made to the Poor Law Commissioners in 1834–5, from 35 counties, and estimating according to the same proportion for the remaining counties.
1 or more for each parish or township, according to the occasion or contract.	14,616	850 Valuers } an average for 389 Surveyors } each of 5 years. But one Surveyor or Valuer has often surveyed or valued a great number of parishes. This number therefore represents not the number of persons, but the number of separate contracts or employments.
1 for each district, usually containing more than one parish or township.	. . .	271, according to Poor Law Commissioners' Seventh Annual Report, 1841.
2 at least to consent to every rate.	14,616	1,550. No number could be stated for this which would at all approximate to the truth, as any two Justices may allow any number of rates. The number stated is estimated at two Justices for each petty sessional division and for each borough. It is certainly below the number who really do act.
1 at every division for Petty Sessions. 9 Geo. IV., c. 43. 6 Wm. IV., c. 12.	600	694, there being in many cases more than one clerk to a Petty Sessional division. See App. II. Report of Commissioners for inquiring into County Rates, 1837.

List of Officers engaged

Rate.	Officers.	Period of Service.
POOR'S RATE—*continued.* —	Justices to allow accounts of Overseers. 43 Eliz., c. 2, s. 1.	*See* 6 . . . . .
—	Paid (by fees) Justices' Clerk. *See* 6.	. . .
7	Guardians in Unions for rating to impose the rate. 4 & 5 Wm. IV., c. 76, ss. 35, 36.	Annual . . . . .
8	Paid Auditors to audit, allow, and disallow accounts. 4 & 5 Wm. IV., c. 76, s. 46.	During the subsistence of the Commissioners' order, and good behaviour.
WORKHOUSE BUILDING RATE. — *Mem.*—This rate has never yet been made.	Churchwardens } In parishes not un- Overseers. } der Guardians . 4 & 5 Wm. IV., c. 76, ss. 23, 25.	*See* 1 . . . . . *See* 2 . . . . .
9	Guardians for single parishes . . 4 & 5 Wm. IV., c. 76, ss. 23, 25.	Annual . . . . .
10	Guardians for Unions . . . . 4 & 5 Wm. IV., c. 76, ss. 23, 25.	Annual . . . . .
SURVEY or VALUATION RATE . . — *Mem.*—This rate has never yet been made.	Churchwardens . . . . . Overseers (?) . . . . . 6 & 7 Wm. IV., c. 96, s. 3.	*See* 1 . . . . . *See* 2 . . . . .
	Guardians for single parishes (?) . 6 & 7 Wm. IV., c. 96, s. 3.	*See* 9 . . . . .
—	Guardians for Unions (?) . . . 6 & 7 Wm. IV., c. 96, s. 3.	*See* 10 . . . . .

in Assessing, &c.—*continued*.

Number for each District.	Number of such Districts.	Number of Officers existing together in England and Wales.
2 to receive account . . 43 Eliz., c. 2, s. 1.	. . .	. . .
1 or 2 to take the verification of the account. 17 Geo. II., c. 38, s. 1. 50 Geo. III., c. 49 s. 1.	. . .	. . .
2 to examine and allow . 50 Geo. III., c. 49, s. 1.	. . .	. . .
. . .	. . .	. . .
1 at least for every parish or township.	1. At present only one such Union for rating has been formed. But every Union may become a Union for rating.	10 at present. But if every Union were to become a Union for rating, as every parish or township must have at least one Guardian, the number would be at least 14,616.
1 for every Union and parish under a Board of Guardians.	573 Unions . . . 14 Parishes under Boards of Guardians.	479 at present.
. . . . .	. . . . .	. . . . .
1 at least for every parish or township.	14	259. The number of Guardians for single parishes now under Boards of Guardians, omitting *ex-officio* Guardians.
1 at least for every parish or township.	573.	17,716. The number of Guardians for Unions, omitting *ex-officio* Guardians.
. . . . .	. . . . .	. . . . .
. . .	. . .	. . .
. . .	. . .	. . .

List of Officers engaged

Rate.		Officers.	Period of Service.
GAOL FEES' RATE	—	Churchwardens } Of parishes in Overseers. } places not contributing to County Rate, and having no Town Rate or public stock. 55 Geo. III., c. 50, s. 11.	*See* 1 *See* 2
CONSTABLES' RATE	11	Constables, Headboroughs, and Tithingmen. 13 & 14 Car. II. c. 12, s. 15.	Annual
	—	Churchwardens 13 & 14 Car. II., c. 12, s. 15.	*See* 1
	—	Justices allowing the rate 13 & 14 Car. II., c. 12, s. 15.	*See* 6
	—	Paid (by fees) Justices' Clerks. *See* 6.	*See* 6
HIGHWAY RATE	12	Surveyor of the 'parish' 5 & 6 Wm. IV., c. 50, s. 6.	Annual
	13	Deputy Surveyors 5 & 6 Wm. IV., c. 50, s. 7.	Annual
	14	Paid Surveyor 5 & 6 Wm. IV., c. 50, s. 9.	Annual (?)
	15	Paid temporary Surveyor 5 & 6 Wm. IV., c. 50, s. 11.	Residue of a year
	16	Paid Collector 5 & 6 Wm. IV., c. 50, s. 36.	At the pleasure of the Surveyor. *See* 12.

in Assessing, &c.—*continued.*

Number for each District.	Number of such Districts.	Number of Officers existing together in England and Wales.
. . .	Not known . .	. . .
. . .	. . .	. . .
1 for every township: by custom sometimes more.	20,000 by Lambard's conjecture. They are much more numerous than parishes, and many do not maintain their poor separately.	20,000, at least according to Lambard's conjecture, that that is the number of the townships.
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
1 or more for each 'parish'	14,616. The parish is for the most part, though still with numerous exceptions, the same district as the 'parishes and townships' maintaining their poor separately.	14,616, assuming the places to be the same as maintain their own poor separately; making no addition for appointments of two or more Surveyors for one place.
1 for each Surveyor who may procure a Deputy.	*See* 12 . . .	Nil. These could not be properly added, if their number was known; for they are only appointed in lieu of the preceding officers, and as many as are added of these are taken from the number of those.
1, instead of the Surveyor. *See* 12.	*See* 12 . . .	Nil. *See above*, 13.
1, in case of non-appointment of Surveyor (*see* 12), or of his death, disqualification, or neglect.	*See* 12 . . .	Nil. *See above*, 13.
as many as the Vestry (or Surveyor?) may think fit.	*See* 12 . . .	14,616. *See* 12.

List of Officers engaged

Rate.		Officers.	Period of Service.
HIGHWAY RATE *continued.*	17	Board of Highways . . . . . 5 & 6 Wm. IV., c. 50, s. 18.	Annual . . . . .
	18	Paid Assistant Surveyor . . . . 5 & 6 Wm. IV., c. 50, s. 18.	Annual (?) . . . . .
	19	Paid Treasurer . . . . . 5 & 6 Wm. IV., c. 50, s. 18.	Annual (?) . . . . .
	20	Paid District Surveyor . . . . . 5 & 6 Wm. IV., c. 50, ss. 13, 14, 15.	For 3 years and thenceforth until 12 months after notice to dissolve the district.
	21	Paid Accountant to keep accounts. 5 & 6 Wm. IV., c. 50, s. 18.	Annual (?) . . . . .
	—	Surveyor to receive Collector's account. *See* 12. 5 & 6 Wm. IV., c. 50, s. 38.	. . .
	—	Parishioners to receive Surveyor's and Board's account. 5 & 6 Wm. IV., c. 50, ss. 44, 18.	. . .
	—	Justices at Special Sessions to receive and examine accounts of Surveyor. *See* 6. 5 & 6 Wm. IV., c. 50, s. 44.	. . .
	—	Paid (by fees) Justices' Clerks. *See* 6.	. . .
LIGHTING or WATCHING RATE . . .	22	Inspectors to order the rate. . . 3 & 4 Wm. IV., c. 90, ss. 8 to 19.	for 1, 2, and 3 years; one-third going out of office the first, second, and every succeeding year. s. 19.

in Assessing, &c.—*continued.*

Number for each District.	Number of such Districts.	Number of Officers existing together in England and Wales.
5 at least, and not exceeding 20, for any parish with a population exceeding 5,000 by the census of 1831.	373. The number of parishes in which the population by last census exceeded 5,000; but it is not known in how many of these such a Board was appointed.	Cannot be estimated; the number of parishes which have appointed Boards being unknown, and varying every year.
1 may be appointed by any Board of Highways. *See* 17.	*See* 17 . . .	. . .
1 may be appointed by any Board of Highways. *See* 17.	*See* 17 . . .	. . .
1 for any district of united parishes.	Not known . .	Not known; but if known, should be added to 12, inasmuch as the Surveyors (12) are still to be elected in each 'parish,' notwithstanding the appointment of the District Surveyor.—5 & 6 Wm. IV., c. 50, s. 17.
1 may be appointed by any Board of Highways. *See* 17.	*See* 17 . . .	. . .
. . .	. . .	. . .
. . .	. . .	. .
. . .	. . .	. . .
. . .	. . .	. . .
3 at least, and not more than 12, for any parish, or for any part of a parish, adopting the Act, ss. 4 to 16, and s. 73.	14,616. But the Act is applicable only to populous places. The number of such places that have adopted it is not known. A speaker on the Municipal Corporations Bill said the number of such places was above a thousand.	3,000 (?) No information exists upon which to form an estimate. This number is taken on the supposition that the parishes and places which have adopted the Act are only 1,000, and that only 3 Inspectors are chosen for each.

List of Officers engaged

Rate.		Officers.	Period of Service.
LIGHTING or WATCHING RATE—*continued.*	—	Borough Council, may assume powers of Inspectors for lighting, in places not having Local Acts. 5 & 6 Wm. IV., c. 76, s. 88.	*See* 50, *post* . . .
	—	Churchwardens. } to collect, raise,	*See* 1 . . . . .
	—	Overseers . . } and levy . .	*See* 2 . . . . .
		3 & 4 Wm. IV., c. 90, s. 33.	
	23	Paid Treasurers.	during the pleasure of the Inspectors (22).
		3 & 4 Wm. IV., c. 90, s. 24.	
	—	Rate-payers to receive the Inspectors' accounts. 3 & 4 Wm. IV., c. 90, s. 18.	. . .
	—	Inspectors to receive the accounts of the Treasurers and other officers. *See* 22. 3 & 4 Wm. IV., c. 90, s. 26.	. . .
MILITIA RATE. .	—	Churchwardens } to make and col-	*See* 1 . . . . .
	—	Overseers . . } lect the rate .	*See* 2 . . . . .
		42 Geo. III., c. 90, s. 42.	
	—	One justice to allow the rate . . 42 Geo. III., c. 90, s. 42.	*See* 6 . . . . .
		Paid (by fees) Justices' Clerks. *See* 6.	. . .
CHURCH RATES —in parishes . . .	—	The churchwardens with the parishioners in vestry to make the rate. The churchwardens to collect. 1 *Bac. Abr.* 373.	Annual . . . . .
	24	The archdeacon or other ordinary to confirm the rate. 3 *Add.* 53.	For life . . . . .
	25	The minister and parishioners to receive the final account of churchwardens. *Can.* 89.	For life . . . . .
—in chapelries . .	26	Chapelwardens to act for the chapelry, as churchwardens for the mother parish. *Degge, P.* 1, c. 12.	Annual . . . . .
	—	Archdeacon or ordinary to confirm the rate. *See* 24.	*See* 24 . . . . .
	—	The minister and parishioners to receive the final account of chapelwardens. *Can.* 89.	For life . . . . .

in Assessing, &c.—*continued*..

Number for each District.	Number of such Districts.	Number of Officers existing together in England and Wales.
. . .	. . .	. . .
. . .	*See* 1, 2, and 22 .	. . .
1 for each parish or place (22).	*See* 22 . . .	1,000 (?) Supposing that 1,000 parishes and places have adopted the Act. *See* 22.
. . .	. . .	. . .
. . .	. . .	. . .
. . .	14,616	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
2 at least; sometimes 3 or 4 for each parish.	10,810.	21,620, without addition for the cases where there are 3, 4, or more.
1 to consent to every rate	10,810.	60. The number of the archdeaconries. *Co. Litt.* 94.
1 for each parish . . .	10,810.	10,810. The number of parishes.
2 for each chapelry . .	844	1,688
. . .	. . .	. . .
1 for each chapelry . .	844	844. The number of chapelries.

List of Officers engaged

Rate.		Officers.	Period of Service.
CHURCH RATES—*continued.* — in extra-parochial places, where new churches are provided	27	On requisition of the Church Building Commissioners, any justice to appoint two or more persons to make, raise, and collect the necessary rates as churchwardens. 58 Geo. III., c. 45, s. 57.	As and while the occasion may require. *Ib.*
	—	Archdeacon or other ordinary to allow this rate? *See* 24. 58 Geo. III., c. 45, s. 57.	*See* 24 . . . . .
	—	The minister and parishioners to receive the final account of churchwardens. *Can.* 89.	For life . . . . .
SEWERS' RATE —for the whole limits of the Commission	28	The Commissioners of Sewers appointed by the Queen's Commission. 23 Hen. VIII., c. 5, ss. 3, 7. 3 & 4 Wm. IV., c. 22, s. 8.	10 years, the period of the Commission, unless it be sooner renewed or discharged by supersedeas. 3 & 4 Wm. IV., c. 22, s. 6. Mayors, bailiffs, or other officers, acting as Commissioners by virtue of their office, (*qu.*) during the continuance of that office. 3 & 4 Wm. IV., c. 22, s. 4.
	29	Paid Surveyors to assess the rate . 23 Hen. VIII., c. 5, ss. 3, 7, 13. —to give security, if required. 3 & 4 Wm. IV., c. 22, s. 50.	At the pleasure of the Commissioners?
—for the whole limits of the Commission, 23 Hen. VIII., c. 5, ss. 3, 7; or for each separate level, valley, or district; or for any part of any separate level, valley, or district. 3 & 4 Wm. IV., c. 22, s. 50.	30	Paid Collectors . . . . . —to give security, if required. 3 & 4 Wm. IV., c. 22, s. 50.	Ditto . . . . .
	31	Paid Treasurers . . . . . —to give security, if required. 3 & 4 Wm. IV., c. 22, s. 50.	Ditto . . . . .
	32	Paid Expenditors . . . . . —to give security, if required. 3 & 4 Wm. IV., c. 22, s. 50.	At the pleasure of the Commissioners.

in Assessing, &c.—*continued.*

Number for each District.	Number of such Districts.	Number of Officers existing together in England and Wales.
2 or more	3	6
. . .	. . .	. . .
1 for each such place .	3	3. The number of such places.
6 at least in every Commission, and any greater number.	42	5,809, as appears by the list of Commissions of Sewers, *antè*, p. 71.
As many as the Commissioners may judge proper.	*See* 28 . . .	42 at least, supposing each Commission appoints only one.
As many as the Commissioners may judge proper for the whole limits, or for each level, or for any part of a level.	Not known . .	42 at least, supposing each Commission appoints only one for the whole of its limits.
Ditto	Ditto	42 Ditto.
As many as the Commissioners may judge proper for the whole limits, or for each level, or for any part of a level.	Not known . .	42 at least, supposing each Commission appoints only one for the whole of its limits.

List of Officers engaged

Rate.		Officers.	Period of Service.
SEWERS RATE—*continued.*	33	—and other Paid Ministers and Officers, if the Commissioners think fit. 23 Hen. VIII., c. 5, ss. 3, 7, 13. 3 & 4 Wm. IV. c. 22, s. 50.	At the pleasure of the Commissioners.
GENERAL SEWERS TAX		The Court of Sewers to make the tax in gross. 4 & 5 Vic., c. 45, s. 1. *See* 28.	*See* 28 . . . . .
	34	Paid Surveyor or apportioner to apportion the tax on the occupiers. 4 & 5 Vic., c. 45, s. 2. *qu.* Security?	At the pleasure of the Commissioners?
	35	Paid Collector to collect the tax when apportioned. 4 & 5 Vic., c. 45, s. 2. *qu.* Security?	Ditto . . . . .
	—	The paid Treasurer of the Commission to receive the tax when collected. 4 & 5 Vic., c. 45, s. 2. *See* 31. *qu.* Security?	*See* 31 . . . . .
	36	or some other Paid Officer appointed by the Commissioners to receive the tax when collected. 4 & 5 Vic., c. 45, s. 2. *qu.* Security?	. . .
DRAINAGE AND ENCLOSURE RATES . . .	37	Commissioners of Drainage or Enclosure.	Dependent on the particular Drainage or Enclosure Act.
	—	or persons appointed to make and collect the Rate. 3 & 4 Wm. IV., c. 35, s. 1.	
COUNTY RATE. .	38	The justices of the peace at General or Quarter Sessions. 12 Geo. II., c. 29, s. 1. 55 Geo. III., c. 51, ss. 1, 12.	During the Commission. In counties of cities, and of towns, usually for life.

in Assessing, &c.—*continued.*

Number for each District.	Number of such Districts.	Number of Officers existing together in England and Wales.
As many as the Commissioners may judge proper for the whole limits, or for each level, or for any part of a level.	. . .	Not known.
. . .	. . .	. . .
1 for each parish, township, or place on which the tax is imposed in gross.	Not known . .	Not known. May be as many as the parishes, townships, or places within the limits of the Commission.
Ditto.	Ditto	Ditto.
. . .	. . .	. . .
. . .	. . .	. . .
. . .	Not known . .	Not known.
2 at least to form a sessions.	56 counties, including the 3 ridings of York, and the 3 divisions of Lincoln. 29 Liberties and exclusive franchises. 1 county of a city and of town, viz., London. The other counties of cities and of towns are included amongst boroughs. *See* 50.	112 at least, allowing only 2, the number necessary to make a session for each county. 58 for liberties and franchises. 2 for the county of the city of London.

List of Officers engaged

Rate.		Officers.	Period of Service.
COUNTY RATE—*continued.*	39	Paid Clerks of the Peace . . . 55 Geo. III., c. 50. 57 Geo. III., c. 91, s. 1.	During good behaviour. 4 *Mod.* 167, 173, 293. 1 Wm. III., sess. 1, c. 21, s. 6.
	40	Paid valuers where overseers fail to make their returns. 55 Geo. III., c. 51, s. 6.	For the occasion . .
	41	Paid (by fees or salary) High Constables to collect rates from overseers, constables, and others. 12 Geo. II., c. 29, s. 1.	Annual . . . . . *Bac. Abr. Const.* A. 683. except where the office is incident to the lordship of a franchise.
		— to give security, if required. 55 Geo. III., c. 51, s. 19.	*Ib.*
	—	Churchwardens Overseers . . { To collect the rate in parishes and townships. 12 Geo. II., c. 29, s. 2. 55 Geo. III., c. 51, s. 12.	*See* 1 *See* 2 . . . . .
	—	Petty constables and peace officers to collect,— 1.—in places where there is no Poor's Rate. 12 Geo. II., c. 29, s. 3. 2.—in places where the Poor's Rate does not apply to the same parts as the County Rate. 55 Geo. III., c. 51, s. 13. 3.—in all the townships in the ridings of Yorkshire and in the counties of Derby, Durham, Lancaster, Chester, Westmoreland, Cumberland, and Northumberland. 12 Geo. II., c. 29, s. 4.	Annual . . . . .

in Assessing, &c.—*continued.*

Number for each District.	Number of such Districts.	Number of Officers existing together in England and Wales.
1 for each county, riding, division, or franchise.	56 counties, including the 3 ridings of York, and the 3 divisions of Lincoln. 29 liberties and exclusive franchises. 1 county of a city and of town, viz., London. The other counties of cities and of towns are included amongst boroughs. *See* 50.	56 for counties, ridings, and divisions. 29 for liberties and franchises. 1 for the county of the city of London.
1 for each division in which the occasion arises.	Not known . .	Not known.
2 for each hundred or franchise. 13 Edw. I., st. 2, s. 6.	800 Hundreds or wapentakes; *qu.* the number of other franchises?	1,600, being 2 for each hundred, without addition for other franchises.
. . .	14,616, being the number of parishes and townships, making allowance for the townships where constables act instead of overseers.	Counted already. *See* 1 and 2.
1 for every township; by custom sometimes more.	152. 1. The number given in the Population Returns, and not in the Poor's Rate Returns, omitting Yorkshire, &c. 2. Not known. 3,042. 3. From the Poor's Rate Returns.	Nil. Already included in 11.

List of Officers engaged

Rate.		Officers.	Period of Service.
COUNTY RATE—*continued.*	42	Paid Assessors in Extra-parochial places, and other places where no Poor's Rate is made, for assessing, taxing, and rating property there. 56 Geo. III., c. 49, s. 1.	At the pleasure of the Justices?
	43	Paid Clerks and other persons, employed —in making valuations, —in making assessments, collections, and levies. 55 Geo. III. c. 51, s. 16.	for the occasion? . . . .
	44	Paid County Treasurer . . . . 12 Geo. II., c. 29, ss. 6, 11.	At the pleasure of the Justices?
		—to give security . . . . . *Ib.*	. . .
	45	Paid Accountant . . . . . 4 & 5 Wm. IV., c. 49, s. 2.	At the pleasure of the Justices?
COUNTY RATE FOR LUNATIC ASYLUMS.	—	The Justices of the Peace at General or Quarter Sessions. 9 Geo. IV., c. 40, s. 12.	*See* 38 . . . . .
	—	Paid Clerks of the Peace. *See* 39 .	. . .
	—	Paid (by fees or salary) High Constables.	*See* 41 . . . . .
	—	Churchwardens and Overseers. *See* County Rate.	*See* 1, 2, & 41 . . .
	—	Petty Constables. *See* County Rate	*See* 41 . . . . .
	—	Paid Collectors	*See* 43 . . . . .
	—	Paid Clerks, &c.	*See* 43 . . . . .
	46	Paid Treasurer to the Asylum . . 9 Geo. IV., c. 40, s. 30.	At the pleasure of the Justices?
	47	Paid Accountant,—*qu.* to apply moneys for the purposes of the Act? 9 Geo. IV., c. 40, s. 14. *qu.* security?	*Qu.* . . . . .

in Assessing, &c.—*continued.*

Number for each District.	Number of such Districts.	Number of Officers existing together in England and Wales.
1 for each place . . .	167. As given in the Population Returns, and not included in the Poor's Rate Returns.	167. The number of such places given in the Population Returns, and not included in the Poor's Rate Returns.
Not known	Not known . .	Not known.
. . .	. . .	. . .
. . .	. . .	. . .
1 for every County . .	56 Counties, Ridings, and Divisions.	56 For Counties, &c.
	29 Liberties and Franchises.	29 For Liberties, &c.
. . .	1 City of London. *See* 38.	1 For London.
1 for every County . .	56 Counties, Ridings, and Divisions.	56 For Counties, &c.
	29 Liberties and Franchises.	29 For Liberties, &c.
	1 City of London. *See* 38.	1 For London.
. . .	. . .	. . .
. . .	. . .	. . .
. .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
1 for each Asylum provided for any County or any combination of adjacent Counties.	22 at least, that being the number returned to the House of Commons in August, 1842, as having provided Asylums.	22 at least, supposing that the Justices have made appointments of Treasurers separate from Accountants (48).
1 at least for each Asylum	22 at least, *see* 46 .	22 at least, that being the number of Asylums returned as provided in 1842.

List of Officers engaged

Rate.		Officers.	Period of Service.
COUNTY RATE FOR BUILDING SHIRE-HALLS.	—	The Justices of the Peace at General or Quarter Sessions. 9 Geo. IV., c. 63, s. 11.	*See* 38 . . . . .
	—	Paid High Constables. *See* 41 .	. . .
	—	Churchwardens and Overseers. *See* County Rate.	. . .
	—	Petty Constables. *See* County Rate	. . .
	—	Paid Collectors. *See* 43 . . .	. . .
	—	Paid Clerks, &c. *See* 43 . . .	. . .
	48	Paid Account Keeper, to keep accounts. and *qu.* to apply the moneys for the purposes of the Act? 7 Geo. IV., c. 63, s. 11. *qu.* security?	*Qu.* . . . . .
BURIAL OF THE DEAD RATE.	—	The Justices at General or Quarter Sessions. 48 Geo. III., c. 75, s. 14.	*See* 38 . . . . .
	—	Paid High Constables. *See* 41 .	. . .
	—	Churchwardens and Overseers. *See* County Rate.	. . .
	—	Petty Constables. *See* County Rate	. . .
	—	Paid Collectors. *See* 43 . . .	. . .
	—	Paid Clerks, &c. *See* 43 . . .	. . .
	—	Paid County Treasurer? *See* 44 .	. . .
HUNDRED RATE .	—	The Justices at General or Quarter Sessions. 7 & 8 Geo. IV., c. 31, ss. 6, 7, 9, 11.	*See* 38 . . . . .
	—	Paid Clerk of the Peace. *See* 39 .	. . .
	—	High Constables. *See* 41 . . .	. . .
	—	Churchwardens	*See* County Rate
	—	Overseers . .	. . .
	—	Petty Constables. *See* County Rate	. . .
	—	Paid Collectors. *See* 43 . . .	. . .
	—	Paid Clerks, &c. *See* 43 . . .	. . .

in Assessing, &c.—*continued.*

Number for each District.	Number of such Districts.	Number of Officers existing together in England and Wales.
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
1 for each County where there is occasion.	Not known . .	Not known.
. . .	Only the Counties, Ridings, and Divisions of Counties bordered by the Sea.	*See* 38.
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .

List of Officers engaged

Rate.		Officers.	Period of Service.
HUNDRED RATE —*continued.*	—	Paid County Treasurer. *See* 44 .	. . .
POLICE RATE. COUNTY AND DISTRICT CONSTABLES' RATE.	—	The Justices at General or Quarter Sessions. 3 & 4 Vic., c. 88, s. 3.	*See* 38 . . . . .
	—	Paid Clerk of the Peace. *See* 39 .	. . .
	—	Paid High Constables. *See* 41 .	. . .
	—	Churchwardens } *See* County Rate	. . .
	—	Overseers . . }	
	—	Petty Constables. *See* County Rate	. . .
	—	Paid Collectors. *See* 43 . . .	. . .
	—	Paid Clerks, &c. *See* 43 . . .	. . .
	—	Paid County Treasurer? *See* 44 .	. . .
	49	Paid (*qu.*) Substitute Overseers .	*Qu.* . . . . .
		1. In default of Overseers . .	. . .
		2. In portions of detached parts of Counties.	. . .
		3. In parishes and places not contributing to the County Rate of the County.	. . .
		4. Where there is no rate made for relief of the poor in any detached part, or liberty, or franchise. 3 & 4 Vic., c. 88, s. 8.	. . .
BOROUGH RATE .	50	The Council of the Borough . .	. . .
		— to order the rate	. . .
		5 & 6 Wm. IV., c. 76, s. 92. viz.:—	
		1. The Mayor . . . . . *Ib.* s. 25.	1. Annual . . . . s. 49.
		2. The Aldermen . . . . . *Ib.* s. 25.	2. For 6 years, one-half retiring triennially. s. 25.
		3. The Councillors . . . *Ib.* s. 25.	3. For 3 years, one-third retiring annually. ss. 30, 31.
	51	Paid Town Clerk . . . . . 5 & 6 Wm. IV., c. 76, ss. 58, 92.	During the pleasure of the Council. s. 58.
	—	Churchwardens. } To make and	. . .
	—	*See* 1. . . . } collect the	
		Overseers, *See* 2. } rates.	
		1 Vic., c. 81, s. 1.	

in Assessing, &c.—

Number for each District.	Number of such Districts.	Number of Officers existing together in England and Wales.
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
1 or more persons for each such place.	Not known . .	Not known.
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
. . .	. . .	. . .
1. One for each borough in Schedules A and B. 5 & 6 Wm. IV., c. 76, s. 92.	128 Boroughs in Schedule A. 49 Boroughs in Schedule B.	128 Mayors, Schedele A. 49 ——— ,, B. 880 Aldermen, Schedule A. 200 ——— ,, B.
2. To be one-third of the number of the Councillors of the Borough.	. . .	2,640 Councillors, Schedule A. 600 ——— ,, B.
3. As settled for the regulation of Boroughs by the Schedules A and B.	. . .	. . .
1 to each Borough in Schedules A and B.	128 Boroughs in Schedule A. 49 Boroughs in Schedule B.	128 Schedule A. 49 Schedule B.
. . .	. . .	. . .

List of Officers engaged

Rate.		Officers.	Period of Service.
BOROUGH RATE—*continued.*	52	Paid Substitute Overseers for places divided by the Borough Boundary. 1 Vic., c. 81, s. 3.	*Qu.*
	53	Paid Borough Treasurer . . . 5 & 6 Wm. IV., c. 76, s. 58. — to give security . . . . . *Ib.*	Annual . . . . .
	54	Borough Auditors . . . . . 5 & 6 Wm. IV., c. 76, ss. 37, 93. 1 Vic., c. 78, s. 15.	Annual . . . . .
BOROUGH WATCH RATE	—	The Council of the Borough . . 5 & 6 Wm. IV., c. 76, s. 92. *See* 50.	*See* 50 . . . . .
	—	Paid Town Clerk . . . . . *See* 51.	*See* 51 . . . . .
	—	Churchwardens } To make and col-	*See* 1
	—	Overseers. . } lect the rates. 1 Vic., c. 81, s. 1. *See* Borough Rate.	*See* 2 . . . . .
	—	Paid (*qu.*) Substitute Overseers for places divided by the Borough Boundary. 1 Vic., c. 81, s. 3. *See* 52.	*See* 52 . . . . .
	—	Paid Borough Treasurer . . . 5 & 6 Wm. IV., c. 76, s. 92. *See* 53.	*See* 53 . . . . .
	—	Borough Auditors . . . . . 5 & 6 Wm. IV., c. 76, ss. 37, 93. 1 Vic., c. 78, s. 15. *See* 54.	. . .

The whole of these officers do not exist in every place; in many instances the officers described are to be appointed in order to supersede other officers enumerated in the list, and the existence of the one class would be incompatible with the co-existence in the same place of the other class.

REMEDIES.

REMEDIES.

Thus, putting out of consideration the taxes and various modifications of detail created by local and special customs, or by local Acts of Parliament, there is found in the common law and the general statutes authority to impose and levy, for about 200 various and imperfectly defined purposes, at least 24 different local

in Assessing, &c.—*continued.*

Number for each District.	Number of such District.	Number of Officers existing together in England and Wales.
1 or more for each such place.	Not known . .	Not known
1 for each Borough in Schedules A and B.	128 in Schedule A . } 49 in Schedule B . }	177
• • •	• • •	
3 for each Borough in Schedules A and B.	128 Boroughs in Schedule A. 49 Boroughs in Schedule B.	531
• • •	• • •	• • •
• • •	• • •	• • •
• • •	• •	• • •
• • •	• • •	• • •
• • •	• • •	• • •
• • •	• • •	• • •
		180,204 Omitting as stated in the above observations.

taxes, a large portion of which would, if the law were to be carried into effect according to its intention, be levied separately and distinctly in every district, some of them permanently, some occasionally, and many of them for the purpose of raising sums of money quite insignificant in amount. The definitions of the persons on whom the taxes are imposed often vary without apparent cause, and sometimes are inconsistent with what is generally supposed to have been the intention of the Legislature; the definitions of the property in respect of which the taxes are assessed being still more various, and involved in still more frequent difficulty. Some of these taxes admit, in the process of their imposition and enforcement, of a great latitude of discretion, others of

REMEDIES.

none; some of them are subjected to no legal check or remedy, some to very cumbrous or expensive ones; while, with regard to others, complainants are embarrassed by the multitude of the facilities for litigation. Again, other taxes are incapable of being levied if resisted; others are only to be levied with great difficulty and cost; others enforced by most stringent, vexatious, and extraordinary means. In some cases there is entirely wanting the protection involved in the accountability of the officers who impose the tax, or collect it, or disburse it; in some there are partial protections, but there is not one case of an efficient protection. The execution of this multifarious and discordant mass of law is confided to a body of not less than 150,000 officers, the greater part of whom are unpaid, little responsible, and changed annually, and who are nevertheless intrusted with the imposition of not less than twelve millions of pounds sterling, in England and Wales, and with the application of this vast amount of money.

Such great temptations and opportunities for abuse cannot exist without a great amount of illegality and extravagance. We have not inquired specifically into the evidence in support of the allegations of mal-administration of many of the more important of these taxes, and cannot therefore either affirm or deny the general truth of these allegations. But, admitting their truth, the abuses certainly are neither so frequent nor so extensive as might be expected from the confusion of the law and the absence of security for its execution, or for the protection of the public. Indeed it can by no means be said that in practice the abuses are at all proportionate to the opportunities for abuse. It is not found that these taxes are laid by preference, for which the officers would be least responsible, or that partiality in the imposition of the taxes is discernibly greater where the tax-payer is without protection, than where he has the choice of his remedies, or that malversations are at all proportionate to the opportunities for malversation. Nor is it found that the opportunities to prevent the imposition or levy of a tax are made use of to anything like the extent which the law in its present state would readily admit of. Indeed the irregularity which is most striking in the administration of this branch of the law, is one which has avoided a great portion of the danger to which the public would have been exposed if the law had been attended to, namely, the very general adoption, without authority, and indeed in defiance of the law, of the Poor's Rate as the substitute or as the model and standard for the other local taxes. In committing this irregularity, the local officers and the public have conformed voluntarily to that rate which is the best defined in its incidence, subject to the most efficient remedies for irregularity, most capable of enforcement, and protected by the most effective official accountability.

In adopting the system of that tax which has been the subject of the most frequent and most anxious concern of the public and

of the legislature, and in disregarding to so great an extent the special provisions applicable to the other local taxes, it seems to us that the local officers and local public have only anticipated in an illegal manner the course which it is advisable to adopt, and to extend still farther by a general enactment. REMEDIES.

We will now advert to some measures, each independent of the other,—some of which appear to us to be desirable with a view to the general and permanent improvement of the law without consideration of any questions of peculiar interest at the present time,—while others of these measures, or some equivalent measures, seem to be required for the settlement of questions of urgent present interest. Suggestions of some amendments in the present law.

We shall first advert to one of two alternative measures which would, we think, remove the most important inconsistencies between the several existing local taxes, but which would involve the evil of leaving the number of the local taxes as great as at present.

Though the systematic disregard of the law involves most serious evils, it appears to us that it would be a still more serious evil to attempt to enforce the observance of the law relating to local taxes, as that law now stands, and this more especially as regards the existing provisions relating to the incidence of these taxes on property and persons. We believe that the provision of an efficient appeal, or other remedy, against such of the present taxes as are not now subject to such corrections, or the provision of efficient audits with a view to compel a more close adherence to the present law, would render the confusion, loss, and suffering to the officers, and the annoyance to the public, intolerable. We are, therefore, of opinion that the public must submit to the inconvenience of allowing the great mass of this law to be still carried into execution as loosely as is done at present, and without adopting any new checks to secure and enforce a regard to its provisions and intentions; or, that if more legality in practice is to be required, the law must first be simplified. It is certainly not to be desired, and it cannot be expected, that the irregular execution of so important a body of law should always remain as little known or as little regarded as it has heretofore been; or that being known, it will be as easily submitted to. Defects in the law or in its execution are from time to time discovered, and the efforts to correct them create or develope other defects; while this very process of correction of particular defects evidently tends to such an excessive accumulation and confusion of details as must render the law more and more difficult of execution. It therefore seems to be almost equally inconvenient to attempt to produce a correct administration of the present law relating to local taxes, or to leave that law to be disregarded as at present, or to be remedied by legislation suggested from time to time by the inconveniences discovered in individual cases. —to assimilate the incidence of the local rates on persons and property.

On the other hand, a great and advantageous change in the

REMEDIES. law would be obtained by the simple adoption of the most beneficial part of the present illegal practices,—a change of the law which has none of the usual evils of change,—which interferes with no existing arrangements, and which would turn all the existing knowledge and experience acquired in the present illegal practices to account, as constituting a qualification for the legal and orderly execution of the amended laws.

The change we now advert to would consist in merely getting rid of the various conflicting definitions of the persons and property liable to the rates, and by confirming the common practice by which the imposition of the rates is made coincident with that of the Poor's Rates. This would undoubtedly, for the most part, correspond with the real intention of the legislature in framing the provisions for the several taxes. Even with regard to Church Rate, at the same time that it would in fact work no practical change, it would be supported by some recent decisions to the effect that a Church Rate made on the basis of the Poor's Rate is not unreasonable. As regards the Highway Rate, there would be no change except in the very rare cases where timber, or mines, or other hereditaments not liable to Poor's Rate have been usually rated. As regards the Lighting and Watching Rate, the change would not necessarily involve any practical alteration, even in the case of the land, inasmuch as the relative liability of lands and of other property to the rate might be still consistently preserved. As regards the Sewers Rate, the legal change would undoubtedly be great; but the practice being, as we have before shown, to lay the rate on the same basis as the Poor's Rate, the change in practice would, even in this instance, be none at all.

There are many reasons why the Poor's Rate should be made the standard for all the other rates. It is already that which is incontestably the best defined by the statute law, and by a great mass of judicial interpretation; it is, as regards its amount, the most important of all the local taxes, and therefore it has the largest number of officers already engaged in connexion with it, and consequently (and this we consider a very weighty reason) it is more extensively known in all its details and bearings than any other rate which could be adopted as a standard for the rest. It is the rate which could also be most easily conformed to, as indeed is abundantly proved by the universal imitations of it where there is no obligation nor indeed authority to conform to it. It is also very certain that in future legislation the tax of greatest amount will, as heretofore, always most readily present itself as the one to be imitated in providing for new exigencies. For these reasons the Poor's Rate appears to be the proper standard of all the others, and our first suggestion therefore is,

—*That all the other local rates should be made conformable in respect of their incidence to the Poor's Rate.*

To consolidate The above proposal presumes that the present local taxes are

REMEDIES.

the assessment and collection of the taxes.

all to be preserved, imposed, levied, and disposed of distinctly as at present; but though this would much simplify the duty of every officer charged with the imposition of a local tax, and would reduce his duties to that of merely following the Poor's Rate, it would still leave the amount of trouble and annoyance in all other respects as it is at present. The present number of distinct taxes would remain. Perhaps the greatest evil in itself, and the cause of most of the minor evils in the present law, is the existing multiplication of independent rates. It is certainly in itself a serious evil that 24 different denominations of rates are co-existent in a country. Even the reduction of this number to four, five, or six rates in a single parish, leaves the practical evil still a very great one. So many different taxes are to be imposed, each for an amount exceeding that required for the appropriate purposes of the tax, but calculated to meet contingencies of unexpected loss or unanticipated demands—so many repetitions are to be incurred of the process of laying the assessment in detail by sets of persons, each ignorant of the changes in the occupation and value of property, which may be known respectively to the makers or collectors of some one or more of the other taxes—so many collections are to be made of the taxes, involving the multiplication of an immense labour to the officers, and continued repetitions of annoyance to the tax-payers, to whom calculation of the amount of their burdens and of the times when they will be enforced, is rendered wholly impossible—where one operation of each kind would be sufficient. If the rate is unfair, then there are so many repetitions of the grievance, and so many multiplications of appeals or other remedies to be resorted to for its removal, or what indeed is quite as great an evil, the submission is made to a multitude of small grievances, not with less injustice in the whole result, nor with less heart-burning on account of its frequent repetitions in minute quantities, but because a resort to legal remedies to correct the grievance only fractionally is too obvious an imprudence. Add to this that there is a multiplication of losses in the collection of a multitude of small rates; for the sums in each case being small, vigilance in the collection and enforcement of payment is diminished, especially as regards the smaller rate-payers, whose shares of contribution are often such as not to repay much trouble or cost in collecting them. The anticipation of this evil again begets another: the assessors attempt to make each collection larger, and therefore less costly, and less subject to small defaults, by imposing the rate for very long periods of time, as in the case of the Sewers Rate, which is often laid for periods as long as two years, thus making demands both heavy and unexpected in proportion to their infrequency, by which unnecessarily large sums are taken at once from the tax-payers to lie a long time idle in the hands of the administrators of the tax. There is to be added to these evils the multiplication of the accounts to be kept, and the multiplication of audits rendered necessary, or, what is worse, dispensed

REMEDIES.

with, because the smallness of each individual rate renders an audit for each too costly, or too cumbrous a matter; and, finally, a multiplication of officers, which renders it impossible to obtain the skill and attention requisite for the exercise of such functions. Making application of all this to more than 15,000 different places, and to 3,232,762 rate-payers, and supposing the rates to be made on an average twice in each year, it must be manifest that a most serious aggravation of labour, expense, loss, annoyance, irregularity, injustice, and malversation must be incurred through the incautious multiplication of taxes.

It seems to us that an adequate remedy for all these grievances, and one easy of execution, and efficacious in its operation, is that of which we have a precedent in the consolidation of all the ancient County Rates into one general County Rate, in the year 1739. If one General Rate were made for all the purposes now to be provided for by the 24 existing local taxes, most of the inconveniences and conflicts in our system of local taxation would be removed by that simple change. The sums now obtained by the imposition and levy of each several tax would then, at proper intervals only, be demanded of the persons assessing the General Rate, in a way similar to that in which the Lighting and Watching Rate, the County Rate, and the Borough Rates, are now obtained from overseers. The process would be simple, and the result absolutely uniform, where there is now nothing but anomaly and complexity. Supposing, for the present, that the overseers are to make the General Rate; the officers now intrusted with the expenditure of any other rate might be required, at some convenient interval, shortly after Lady-day, to send to the overseer an estimate of the amount required by them for the succeeding year. The overseer would simply have to add all the several amounts so estimated by the several officers concerned in the different rates to the estimated amount of the Poor's Rate for the like period, and one rate-book would effect the assessment of all the rates; one collection, which might then be made quarterly, or at convenient intervals to be prescribed by the Act of Parliament, and which would be known to all the rate-payers, would effect the purpose of many collections now made at most irregular intervals; any inequality in the rating would then be of sufficient importance to justify a resort to the appropriate remedies, and perhaps one treasurership would most adequately provide for the custody of all the rates until drawn out of his hands in the due course of expenditure. That expenditure would remain in the same hands as now; thus, for instance, the churchwardens would expend the Church Rate for the same purposes as now; they would only be eased of its assessment, collection, and levy, and partially of its defence. The same would be the effect on all the other officers imposing, levying, holding, and expending any of the rates which we recommend to be thus consolidated in their assessment and levy.

It is obvious that this arrangement would most completely

effect the purposes of our first suggestion; that it would absolutely identify the valuation of all the rates and their incidence upon persons and property; that it would save an immense mass of labour, cost, vexation, injustice and loss, and would by a very simple provision effect the repeal of a great mass of now irreconcilable law. With these views we recommend to consideration provisions to the following effect:—

That within — days after the 25th of March, in every year, all the persons now competent to impose any local rate shall send in to the officers assessing the Poor's Rate an estimate of the amounts required by them for each of the four quarters of the ensuing year;

That the persons assessing the Poor's Rate shall add the amounts so estimated to the amount estimated as required for the Poor's Rate, and shall assess one General Rate for the whole.

The title at the head of the rate, which should be copied in the printed demand made on each rate-payer by the collectors, should be as follows:—

'A GENERAL RATE for the Parish of M——, in the County of S——, made this 1st day of May, in the year of our Lord 184—, after the rate of [3*s.* 0¼*d.* in the £. on land, and 3*s.* 4¼*d.* in the £. on other property.*]

	In the £. on Land.			In the £. on other Property.	
	s.	*d.*		*s.*	*d.*
For the relief of the Poor . . . at	2	0	and at	2	0
For Highway Rate . . . . . ,,	0	4½	,,	0	4½
For Church Rate . . . . . ,,	0	1¾	,,	0	1¾
For Lighting and Watching Rate ,,	0	2	,,	0	6
For County Rate . . . . . ,,	0	4	,,	0	4
	3	0¼		3	4¼

Where rates only apply partially to a parish, as a Borough Watch Rate; or where two parts of a parish contribute to different rates, as in one part to a Borough Rate, and in the other part to a County Rate; or where the same rates are made of different amounts in different parts of a parish, as where Sewers Rates are made for separate levels, or where various Paving, Lighting, or Watching Trusts, or other officers raise rates for districts not co-extensive with the parish, the requisite alterations to be made in the heading of the rates are readily understood and might be left to be made in each case by the officers assessing the General Rate, or the forms might be provided for in a schedule to the Act.

* This difference in the amounts of the rate on land and on other property is stated on the presumption that the existing distinction in respect of the assessment of those properties to the Lighting and Watching Rate would be retained.

REMEDIES.

—*That the provisions now applicable to the collection and levy of Poor's Rate should be re-enacted for this General Rate.* Obsolete and redundant provisions being abandoned, and the conflict between enactments being as far as possible removed:

—*That the demand made by any officers,—say churchwardens or surveyors of highways,—might be appealed against in a manner somewhat similar to that in which the order of Inspectors for the Lighting and Watching Rate may now be appealed against* (App. A. **150, 151, 152**), *but only on the ground of objection to the total amount of their demand, or to the inequality of an aggregate rate as affecting different parishes; but not on any ground relating to the assessment of the General Rate:*

—*That the existing provisions for an appeal against the Poor's Rate should be re-enacted in an amended form for the General Rate,* to apply to all grievances effected by the assessment of the rate on individuals;—*Or that a new remedy against the rate be provided,* such as we shall presently submit for consideration:

—*That* (with the exception perhaps of the County Rates and Borough Rates) *the General Rate shall be deposited, as collected, with some one treasurer, and only withdrawn by orders for actual payments by the several officers having the expenditure of the respective rates.*

—*That the audit now applicable to the Poor's Rate shall apply to the General Rate, at least from the stage of its assessment to its being drawn out of the treasurer's hands:*

—*That the principles of the audit of Poor's Rate should at least be extended to the expenditure of all the other rates made for parishes,* if not to some or all of the rates of the County Rate series.

The above suggestions would involve no real change in the incidence of the local taxes.

We shall now proceed to offer a few suggestions upon particular points, which might be combined with the alterations suggested above, or might be enacted separately and independently.

Modifications of the law as to the property liable; viz.—

First, with regard to the kinds of property in respect of which the local rates are laid, it is necessary particularly to consider whether personal property, especially stock in trade, is to remain exempt from Poor's Rate, as it now is, until the 1st October, 1843, and if so, whether that exemption should be extended to other rates besides the Poor's Rate.

—to exempt Stock in Trade;

We have, in the preceding part of this report, remarked upon the incongruities in the law relating to the rating of stock in trade. The remarks made with relation to the Poor's Rate apply equally to all the other rates which by law include stock in trade. We do not think it necessary to add to them here, but we think—

REMEDIES.

—*That the exemption of inhabitants in respect of stock in trade and other personal property from the Poor's Rate should be made permanent:*

—*That the exemption should* (if the above suggestion of the General Rate should not be adopted) *be extended to all the other local rates.*

—to render Mines and Woods liable;

As regards the other kinds of property made expressly liable to the Poor's Rate, and to others of the local rates, we think some modifications necessary, both for the sake of fairness towards the possessors of the different kinds of property concerned, and for the avoidance of confusion and consequent litigation.

The Poor's Rate and the taxes on that basis may be generally said to apply to the net rent of all kinds of real property, including tithes, themselves a severed portion of that net rent. The only general exemptions from taxation to this class of burdens are in respect of the net profits of Mines other than "coal mines," and of Woods other than "saleable underwoods." But again, by the effect of recent decisions, the net profit of a Mine *not* a coal mine is rateable if the rent be taken in the produce of the mine.

However, neither these exempted Mines nor Woods are by law exempted from Church Rates or Sewers Rates, or from any rates not expressly imposed on the basis of the Poor's Rate; and, so far as they may have heretofore been rated, they have been expressly made liable to the Highway Rates. All Tenements whatsoever are expressly made liable to the Sewers Rate, as are all Rents; this rate therefore also extends legally to all "mines" and all "woods."

Whatever may have been the original reasons for exempting Mines and Woods from the Poor's Rates, we believe it to have been quite without premeditation that they have been subsequently exempted from the other rates. A mining population, such as that of the iron districts of South Wales, Staffordshire, Shropshire, Yorkshire, Derbyshire, North Wales, or the Forest of Dean, or that of the tin districts in Cornwall or Devonshire, or that of the copper districts in Cornwall, Devonshire, Anglesey, or elsewhere, not to mention less important districts where these and other mining operations are carried on, must contribute to the criminals of a county, to the filling of its prisons, to the occupation of its lunatic asylums, to the occasions for shire-halls and assize courts, to the riotous and tumultuous destruction of property which gives occasion to the Hundred Rate, to the necessity for a police force, as much, in proportion to their numbers, as any other portion of the population; while the proprietors of these mines derive as much advantage, in proportion to the relative value of their property, from the roads and the county bridges, from the protection afforded to their property by the remedies against the hundred, and the institution of a police force, as any

REMEDIES.

other class of proprietors. We cannot therefore think that it was with deliberation that their exemption from Poor's Rate has been extended to the Workhouse Building Rate, to the Gaol Fees' Rate, to the Constables' Rate, to the Highway Rates, to the Militia Rates, to the whole series of rates made for counties, for hundreds, for police districts, and for boroughs. We believe the result to have occurred merely by oversight in all these instances, and to have been brought about simply by the desire of the legislature to avail itself of the machinery of the Poor's Rate, and generally of the better principles and practices established in connexion with the imposition of that rate.

The exemption, which was of small importance in the reign of Elizabeth, has become multiplied more than a hundred-fold in regard to the Poor's Rate alone; and in the course of less than one century, preceding the year 1836, had been increased in value in regard to the County Rate more than 148 per cent. But the unintended exemption from new taxes is a result which is likely to be perpetuated and aggravated every year, while the Poor's Rate continues, on the whole, to be the best standard for local taxation, and therefore for imitation: thus it was extended during the first century of the existence of Poor's Rate to two of the most important of the other rates,—the Constables' and the County Rate, and is now in course of very rapid extension, having within the last 30 years been, by the express authority of Parliament, extended to 14 other taxes, while the unauthorized imitation of the same policy has further extended it to all the other rates. Thus, partly by legislative authority, and partly by illegal practice, the exemption from Poor's Rate has become virtually an exemption of these kinds of property from all local taxation whatever.

The want of fairness in the exemption is certainly not so striking in the case of woods.

But there is always an evil attendant upon exemptions, however unimportant they may be as a question of gain or loss; the desire on one side to get within the operation of the exemption, and that existing on the other side to bring the privileged property within the general rule, particularly where the question is whether taxes imposed by popular bodies shall be borne or not, inevitably breeds frequent occasions for dispute and for contention in all degrees of intensity up to that of obstinate litigation; and even when the question is legally settled, unless the reasons for the exemption be very plain and intelligible, and its fairness made apparent, there still remains a lasting dissatisfaction, which is in itself not a small evil.

We have before adverted to one of the reasons for which it seems that Timber and Woods generally were exempted, while saleable underwoods were made liable to the tax, namely, that the Poor's Rate was understood and intended to be an occupier's not a landlord's tax; and saleable underwoods being usually farmed,

while timber and the tall woods were, as a rule, retained by the landlord, it seemed to follow naturally that the saleable underwoods should be rated and the timber exempted.

The very foundation of this policy, namely, the assumption that to tax timber and wood would be to tax the landlord, and to tax saleable underwoods would be to tax the occupier, would, we conceive, be now universally considered untenable. We conceive it no longer requires proof that the tax upon saleable underwoods is a tax which must be paid out of the net profit or rent of the land, and that it is, in fact, like the whole of the rest of the burden of the Poor's Rate, so far as it affects real property, a tax upon the rent of the landlord, only disguised by the process of intercepting that rent while accruing in the hands of the occupier, instead of taking it, when it has accrued, directly from the landlord. The tax upon saleable underwoods, therefore, is as much a tax upon the landlord as if he were taxed directly for them; and there is no ground for the distinction of saleable underwoods as an occupier's, and of timber and tall woods as a landlord's interest.

The exemption of timber and other tall woods is of course a positive benefit to every landlord who has more of such timber and woods on his estate than his neighbours in the same parish or the district of taxation; but it is only to the few landlords so circumstanced that there is any advantage whatever in the exemption; for where a landlord has only the usual proportion of wood and timber upon his property, what he escapes in contribution to the taxes of the district in respect of his wood and timber is encountered in an increased proportion of contribution in respect of his land, houses, and other taxable property. This effect is, if possible, more clearly visible in the case where a landlord owns the whole of a parish or township, or other district for taxation, in which case it is obvious that, in proportion as he escapes payment in respect of one of his properties he incurs the same amount of burden in respect of all the others. In the great majority of cases it must be admitted that landlords would neither gain nor lose by an alteration in the law by which wood and timber should be rendered liable to taxation. It is, however, true, that where any one or more properties in a parish or district for taxation should have more than their usual proportion of timber and other wood, their owners would be proportionately losers by the change; and this loss, though it would not be frequently incurred in the smaller districts, such as parishes and townships, within which the proportions of wood on different properties do not much vary, would certainly be incurred in respect of the taxes imposed on larger districts, such as hundreds and counties, some portions of which are usually wooded to a much larger extent than others. Thus the value of the present exemption of timber and tall woods may in many cases be said to be nothing, in others very slight; and, if the exemption were repealed, it would rarely happen that

REMEDIES.

a property would consist so exclusively or largely of wood that the difference between what would be lost in taxing that property, and what would be gained by the relief of the other parts of the same estate, would be of any considerable importance.

It is sometimes urged that the profit on wood accrues so slowly, and the returns are obtained after such great intervals of time, that there would be much inconvenience in levying a tax in those intervals; but if the profit is slow the rate would be low; and it is not to be forgotten that there is always other property connected with timber on the same estate, the returns of profit from which are constant, and that in proportion as the rate is imposed for timber it will be lessened for such other property.

But as regards the justice of rating timber to these local taxes, it seems to us that the present exemption cannot be vindicated on any principle of admitted applicability to the subject of taxation. If the tax is to be laid according to the benefit derived from its expenditure, there can be no doubt that those deriving their means from wood-land derive also as much benefit from taxes of the nature of the Poor's Rates as any other class of proprietors. As regards such rates as Highway Rates and County Rates, there can be no doubt that property in wood-land derives a portion of its value as much from roads and bridges as any other property, and that the produce, when it is taken, causes as much use to be made of those facilities as the produce, when it is taken, of any other land.

As to the policy, which is sometimes contended for, of encouraging timber and other woods, we will say no more than that the artificial encouragement of the one kind of produce is to the same extent an artificial discouragement of all the others.

On the whole we think that the exemption of timber and tall woods is not worth the complication and the disputes to which it leads; and that in the cases where it is worth anything it was not originally a just exemption, and that at all events it ought not to be extended to those other rates to which the terms of the statute of Elizabeth do not apply, and to future rates or new charges, without a distinct consideration of its merits, and a deliberate recognition of the full extent of the claim; for, as we have before observed, the exemption from Poor's Rate tends, whether the legislature had any such intention or not, to create an absolute exemption from all local taxes whatsoever.

To some extent the observations made with regard to timber,—that what a landlord gains by the exemption of one kind of his property he loses by the increased taxation of another part of his property, applies also to mines; but certainly to a much less extent, inasmuch as the property in mines is not so equally distributed amongst landowners, those persons who own mines often owning little or nothing else. The burden they would incur by taxation for their mines would not therefore be compensated by the amount of burden they would escape from in respect of some

other property. The proposal to rate mines is therefore one which implies a greater change in the burden of the tax than the proposal to rate timber and woods. It would not only involve new properties, but to a great extent a new class of landlords, upon whom the change would operate like the imposition of a new tax. REMEDIES.

But it cannot be denied that mines are usually more productive of charge upon all the rates than almost any other kind of property; nor can it be denied that the profits of mines constitute an adequate ability for contribution to those rates: therefore, whether ability or benefit be considered as the ground of taxation, there seems to be no justification for their exemption.

We must here advert to some representations usually made as arguments for the exemption of mines, namely,—that the profits of mining are extremely uncertain and variable; that the rents usually paid for them are therefore not fixed money rents, but are variable according to the produce obtained by the adventurer; and that to impose a tax which would diminish the profits of the latter would operate to discourage mining adventures. Upon these arguments it may be observed, that although the success of a mining operation is subject to the uncertainty whether it will be productive of a profit or of a loss, the fact constitutes no ground for claiming a peculiar exemption for mines; for the mine, like all other property, would only be liable to the tax in proportion to its profitableness, and would not, any more than other property, be taxed if it were unprofitable. It must be admitted that many mines are unprofitable, and it is just that their owners should not be taxed, nor would they if they were subject to the general law: the failure of some mines to produce a profit therefore does not appear to justify the conclusion that the owners of prosperous mines should, during their prosperity, be exempt from contributing to the common taxes. As regards the variableness in the produce and profits when once a mine is in work, this is of course only a question of degree; the profits of all other rateable property are more or less fluctuating,—from house property and saleable underwoods, which from year to year is apparently the least variable of any, to arable land,—which from year to year is perhaps as fluctuating in its rate of profit, as, on the whole, mines themselves are from year to year. For in truth, it would appear from the regularity with which the entire mineral produce of each district and of each property can be increased or diminished, according to the varying demand for that produce or the state of competition with other districts and countries—a conformity of production found to be almost absolute—that the fluctuation in the produce or profit of mines is, as a general fact, greatly overrated; and that, on the contrary, the amount of produce, the prices and the profits in the business of mining appear to be far more constant than the amount of produce, the price of the pro-

REMEDIES.

duce, and the profits of agricultural industry, whether these be viewed in relation to a single farm, a single property, a single district, or the whole country. However this may be as a question of degree, it is certain that, in the case of other properties, whether the profits of a property fluctuate much, as in the case of arable land, or little, as in the case of houses, this fluctuation has never been regarded as a ground of exemption. It is only recognized as a reason for laying the tax in each case upon the estimate of the average profits.

But the entire argument is founded on the assumption that the tax would discourage production. This assumption seems to be for the most part wholly untenable in respect of mines, as of all other kinds of property productive of rent, and which are rated on their net profits. If by law a tax can only be laid in proportion to the owner's rent or net profit, and if when the owner's rent is exhausted or absorbed by the tax, no further tax can be made, as is the case with all the taxes now in question, it is indisputable that such taxes can in nowise interfere with production by occupiers paying rack rents or rendering any other consideration equivalent to a net rent. It is absolutely the same thing to the occupier or adventurer in the mine, whether he pays after the rate of a pound in rent and nothing in taxes, or whether the mine be taxed according to its net rent, and he pays instead of the pound in rent 17*s*. 6*d*. as rent and 2*s*. 6*d*. for local taxes; or whether indeed the proportion be reversed, and he pays 17*s*. 6*d*. in taxes and only 2*s*. 6*d*. for rent. It is obvious in all these cases, that whether a mine be tax-free, or whether it be taxed to the exhaustion of the rent or net profit, the adventurer's motives to produce, and his profits of production, can be in no way diminished; and that the imposition of a tax which would absorb the whole rent would not induce him to employ one penny in capital less than before, or to spend one penny the less in wages. The result is undoubtedly different as regards permanent improvements by owners or lessees, which improvements are intended to increase the net or rateable profit. The owner, or a lessee, will not of course make such improvements if the tax be such as not to leave him a remunerating profit for the outlay. In this respect, however, the tax would operate as a discouragement to improvement in mining operations no more than it does to agricultural improvements, or to building,—which have at present to bear more than their fair share of this disadvantage.

It remains to be considered, whether a kind of property causing to so great an extent the expenditure of all the local rates imposed on other kinds of property, and itself increasing so constantly as it has for many centuries, in value, and to so great an extent, has any fair claim to be in future exempted from the existing taxes, and to cast its share upon other properties; and if it has, further, whether it has a claim to the like exemption from all future taxes to be made for local purposes at the like expense of other properties.

REMEDIES.

With respect to these exemptions of mines and woods three alternatives present themselves :

—to continue the exemption of mines and timber and tall woods from the Poor's Rate, and the rates on the same basis, and their liability as it now exists, to the Highway Rate, the Sewers Rate, and the Church Rates:

or, if the principle of the exemption be approved,—

—to continue the exemption from the Poor's Rate and the rates on the same basis ; and to extend it also to the Highway Rate, the Sewers Rate, and the Church Rates,

or, if the principle of their exemption be abandoned,—

—to repeal the exemption from the Poor's Rate and the taxes on the same basis.

In the first case, the present discordance between the several classes of taxes will be continued.

In the second case, the law would be made uniform ; and it would only be necessary that the terms of the statute of Elizabeth, in describing rateable property, should be re-enacted for all the rates, or for the General Rate recommended above.

In the third case (supposing also that the exemption of stock in trade should be perpetuated), the definition of rateable property would be—

That all lands and improvements of lands and all tithes, should be rated.

—to exempt Union Workhouses from Poor's Rate.

Before the year 1839, it had been generally understood that workhouses of Unions, situated in parishes within the respective Unions, were exempt from Poor's Rate and other similar parochial rates. While this understanding prevailed, a large portion of the parish workhouses had been taken by Unions, and improved; annual compensation by way of rent being given by the Unions to the respective parishes. Another large portion of the workhouses had been entirely erected on land purchased for the purpose on the same understanding.

In favour of this conclusion, there were many decisions in analogous cases ; thus, an almshouse for the maintenance of poor children, built on land before rateable, and continuing still to be the absolute property of the person who devoted it to the purpose, and remaining under his personal control in all respects, was held (Lord Mansfield and Mr. Justice Buller being two of the judges) to be exempt, as a property applied to public and charitable uses.* Thus also where land before rateable was demised for the use of a hospital for lunatics, and buildings erected on it which were occupied entirely by the poor lunatics and the hired servants attending on them, it was held, that the lessees of the land, being mere nominal trustees, without an interest in the use of the pro-

* *R.* v. *Waldo*, 1 *Bott*, 182.

REMEDIES.

perty, could not be deemed occupiers, nor be rated; that the hired servants, having no more accommodation than was required for the performance of their duties, could not be deemed occupiers, nor be rated; and that the inmates who were the objects of the charity could not be rated; and, in conclusion, that as no person could be found rateable to the tax, that there could be no rate at all.* Thus also St. Bartholomew's Hospital, built on ground before occupied for the most part by rateable property, and vested in the mayor, &c., of London, was held not to be rateable, the governors not being occupiers, and not being chargeable to the poor for the property in any other capacity.†

Even where a positive surplus revenue was obtained from a property within a parish, in the shape of tolls for the use of a navigation, these tolls being applied by the trustees to the purposes of an Act of Parliament for the benefit of a larger district including the particular parish, it was held exempt from Poor's Rates, inasmuch as there were no occupiers, the trustees having a bare naked trust, not coupled with any interest, and having no personal advantage.‡

Workhouses of Unions, not being less applied to public and charitable uses than the almshouses excepted by the first decision, and Guardians of Unions being but trustees, no more interested in the workhouse than the trustees of a hospital, the servants of the workhouse and its inmates no more rateable occupiers than the servants and occupiers of a hospital, while, on the other hand, the workhouse is always a charge on its possessors, and can never be productive of a revenue (as in the case of the tolls above referred to), it was at first supposed that Union workhouses were exempt.

However, in 1839, it was decided that a Union workhouse is subject to the Poor's Rate, "on the ground of the property not being devoted to a public purpose, and being beneficially occupied"§

This liability of Union workhouses has been complained of on the part of many of the parishes which are required to pay rates to those other parishes in which their joint property is situated; and there is an expectation prevalent, that the subject will be taken into consideration by the Legislature.

It is undeniable that the maintenance of the workhouse is itself

---

* *R.* v. *the Occupiers of St. Luke's Hospital*, 2 *Burr.* 1053.

† *Case of the Governors of St. Bartholomew's Hospital*, 1 *Bott.* 161.

‡ *R.* v. *Salter's Sluice Navigation*, 4 *T. R.* 730. See also for the application of the like principle, *R.* v. *the Trustees of the River Weaver Navigation*, 7 *B. and C.* 70. See also *R.* v. *Liverpool*, 7 *B and C.* 61.

§ *The Queen* v. *the Guardians of the Wallingford Union*, 2 *P. and D.* 226. In a case decided but a short time previously, it had been held that the purposes of boroughs, which are neither co-extensive with the whole country, as parishes and townships (with the exception of a comparatively small number of privileged places) are, nor individually so extensive as Unions, were '*public purposes*:' and it was observed by the Court that 'the public is the town of Liverpool.' *The Queen* v. *the Corporation of Liverpool*, 9 *A. and E.* 435.

REMEDIES.

a burden, perhaps less oppressive to the rate-payers than any other machinery for the same purpose, but still a positive burden; that it can never be a source of "ability," *i. e.* of net revenue to its possessors, such as is the subject and the measure of the taxation of all other property, that it can only be supported at all by levying a tax; and that if it is to be rated, the rate will be a rate upon a tax, payable only by raising an additional amount of tax.

This is an anomaly which has usually been partially or entirely avoided whenever buildings or property is to be maintained for public local purposes. Thus the workhouses of Gilbert's Unions are rateable only at the amount at which the property was rated when taken for the use of the Unions (22 Geo. III., c. 83, s. 19); the like principle is applied to County Lunatic Asylums (9 Geo. IV., c. 40, s. 29). Gaols and Houses of Correction, maintained by county or borough rates, are wholly exempt, not by express provision, but apparently on the ground that they are devoted to public purposes, or perhaps that they belong to the King (2 Inst. 100). Property in the occupation of Municipal Corporations, for the use of such Corporations, is also wholly exempt (the Queen *v.* the Corporation of Liverpool, 9 A. and E. 435, 4 and 5 Vic. c. 48, s. 1.)

It appears to us that the same considerations apply to the rating of Union workhouses as apply to the rating of these exempted properties, and consequently that the same rule should be applied to the one as to the other; so that either all should be rated, or all should be exempt. But as there would obviously be much more inconvenience incurred in the attempt to rate the properties which have been exempted, than in extending the exemption to the workhouse, we recommend;—

That Union workhouses shall not be taxed to the relief of the poor.

To substitute Owners for Occupiers;

We have already remarked (p. 61) upon the defects of the present provisions (59 Geo. III., c. 12, ss. 19—23) for rating the owners of property, the occupiers of which are a class of persons too poor or too fluctuating to be either conveniently assessed to the rate, or to allow the rate to be levied upon their property. The more striking defects of the existing provision are:—

First, that it applies only to Poor's Rates, while the principle of the provision and the occasions for resorting to it, arising from the difficulties, waste, and risk of loss in the collection, apply even in a greater degree to the other rates, in proportion as the amounts to be levied on individual rate-payers are less;—

Secondly, that the provision is confined to properties let at sums between 6*l.* and 20*l.* a-year, omitting all below 6*l.* a-year, that is to say, omitting precisely the class of property for which the provision is most needed;—

Thirdly, that the option is given to the vestry to introduce th

REMEDIES.

Liability of Owners.

provision or not, at their pleasure, and that power is given to them to charge any one or more owners at their pleasure, and to omit any others as they may think fit.

recommendations;

It would probably be found to be a sufficient remedy for all the complaints that are now usually made with reference to this branch of the subject, if the defects of the statute in the above respects were avoided. This would be effected by repealing the existing provisions, and making new enactments to the following effect:—

> *That the owners of all rateable properties let for no greater term than a year, and of no greater annual value than pounds sterling* (without any minimum) *shall be rated in respect of such properties instead of the occupiers thereof, to all the local taxes* [*or the Consolidated General Rate.*]
>
> *That the rates on owners may be levied on the property of such owners, but if such rates be not paid by them, the same may be levied with costs from the then present or any subsequent occupiers, and such occupiers may deduct the same from the accruing rent.*

Such provisions would correspond with those introduced during the present Session, for the purpose of avoiding the difficulties encountered in the levy of rates in Ireland, off the occupiers of the smaller holdings, and with the various Bills brought into Parliament during several recent Sessions, as well as with numerous provisions of local Acts. It is within our knowledge that several local Acts, solely or chiefly for the purpose of effecting a change in the principle suggested above, would have been applied for, but for the confident expectation that the subject would soon be disposed of in a satisfactory manner, by legislation of a general character.

Such a change as that suggested would probably be found sufficient to remove the existing complaints on this part of the subject, and would certainly secure the bulk of the rate-payers from the great loss they now incur by the escape from taxation of the property occupied by poor persons.

—general considerations.

But as this is only part of the loss incurred by the rating of occupiers, and as important consequences would attach to a more extensive adoption of the principle of imposing these rates on owners, we think it our duty to advert more at large to this subject. We do this, however, less with a view to immediate legislation, than with the object of showing the extent to which the principle might be beneficially brought into operation, if a thorough revision of the law of rating should be contemplated, and of indicating the direction in which it is desirable that the future legislation on this matter should invariably tend, where a choice may, without practical difficulty, be made between the alternatives of rating the occupiers, or of rating the owners.

REMEDIES.

Liability of Owners.

Many inconveniences and anomalies arise from the fact that the *legal* character of the Poor's Rate and of all the local rates except the Sewers Rate, is not made accordant with its real and *essential* character. These rates are, essentially, taxes on the rent of the landlord, not taxes upon the occupier's profits; no legal declarations, no limitations of legal remedies to the person and goods of the occupier, however much they may disguise the aspect of the tax or make its burden operate unequally on rent, can make it fall permanently on any thing but rent. If the same rates were all avowedly laid upon the landlord, but made leviable upon any goods found upon the rated property, the occupier being enabled to deduct his rate from his rent, the amount of net rent which would then be paid to the landlord would, doubtless, be the same as now, but there would be no disguise of the real incidence of the burden. Then, also, the right of the landlord to a superior share of power in vestry and in the election of Guardians, to protect himself from injustice in the imposition, and from mismanagement in the administration of the taxes to which he would then be seen to be the sole contributor, would not be viewed with the present jealousy, if indeed it were at all contested. This result would be not only valuable for the sake of the abstract fairness of giving protection to those whose interests are really involved; but would be equally desirable for the sake of those classes who, though not interested as tax-payers, are otherwise deeply interested in the proper administration of the laws; for perhaps the greatest abuses which ever prevailed in the administration of the poor laws arose from this fact, that the tax fell, and that it was found out by the occupiers that it did fall, upon the landlords, while the administration, expenditure, and appropriation of the tax was given exclusively to the occupiers, who did not really bear the burden.

The attempt to give the tax the appearance of an occupier's tax, involves besides many other practical inconveniences.

The chief of these inconveniences is that, in looking to the occupier for payment instead of looking to the receiver of the net rent, a poor and insolvent contributor is often looked to instead of a solvent one—a casual and fluctuating contributor instead of a permanent and fixed one. The poor occupier escapes through his apparent inability to pay, and through a leniency and consideration towards him which would be manifestly inapplicable to his landlord. Moreover, the rate, or a fragment of it, is frequently lost, both at the beginning and at the end of the term of occupation of a fluctuating class of occupiers; and this loss is, of course, more frequent in proportion to the shortness of the term, or as the change of occupiers is rapid; although, in these cases, the rent keeps its unvaried average, and the landlord is as permanently accessible, and his benefit as constant, as that of the landlords of other kinds of property that do not escape their

REMEDIES. *Liability of Owners.*

burdens. In other words, the sympathy towards the poorer class of tenants produces its advantages, not to them, but to their landlords; their occasional inability to pay brings relief, not to them, but to their landlords; and their more rapid change of abode serves, through the disguise of the tax as an occupier's tax, to render the permanent interest of their landlords inaccessible to taxation.

Another inconvenience results from this: in order to catch the occupier it is necessary to make the remedies very much more stringent than would be necessary if it were made clear to the occupier that what he paid in rate he would deduct in the rent. Committal of poor occupiers to gaol for non-payment of rates would certainly be unnecessary if the rate were made in law what it is in reality—a landlord's tax, and an avowed, instead of a disguised, deduction from rent. Again, the pursuit of the removing occupier's goods and person into other parts of the country, beyond the district of taxation, from the labour and difficulty involved in resorting to it, is for the most part an illusory remedy; but where it is resorted to is still only made use of at the cost of considerable time and trouble, and is in all cases a gratuitous difficulty imposed upon the collectors of the rate, in consequence of the statutory disguise of the tax as an occupier's. Indeed, allowing for the greater amount in the calls for the general tax, it seems to us to be highly probable that the difficulty of collection, if its character as a landlord's tax were made apparent, would be very little greater than that now encountered in collecting the present Land Tax and Sewers Rate.

Another most important advantage would arise from making the real incidence of the tax apparent, namely, the lessening of dissatisfaction with the tax, and the consequent diminution of litigation. The occupiers would see that they were not interested in appealing. The landlords, a much less numerous class, would, from a more extended consideration of the value of their several tenements, refrain from appeals where an inequality unfavourable to them in one case was balanced by an inequality quite as favourable to them in another case, and where they could only obtain redress in one instance by incurring an equal burden in another.

The same cause would also produce the beneficial effect of diminishing much of the agitation and dispute in vestries, arising from the unfounded belief of the occupiers that they are affected, when, in fact, they are not affected; at least, all those cases in which vestries refuse rates for the permanent benefiting of the land in the neighbourhood, as in the case of the highways, and many of the occasions which now produce most vehement complaints of expenditure for permanent but costly improvements, as for various county structures,—bridges, gaols, asylums, assize

courts, and the like,—would assume quite another character, when it was clearly seen that these advantages to the landlord's property were wholly paid for out of the landlord's profits.

REMEDIES.
Liability of Owners.

Now, the proposal to rate the landlords does not involve the imposition of any new burden on them as an entire class; for it is well known, and cannot be denied, that the landlords, as an entire class, cannot gain by the shifting of the rate from one property to another, and by the frequent escape of one kind of property from its due share of burden; on the contrary, the loss of rate, the additional expense of collection, the additional litigation, the loss and cost occasioned by the mismanagement of those who have no real interest in the judicious economizing of the tax,—all fall as increased burdens upon the entire class of contributors, that is, upon the landlords as a class. But it is one portion of this class, undoubtedly, that more peculiarly pays this additional cost, and another portion of this class that escapes. The owners of the property which is respectably tenanted pay in addition, first, what the owners of other property escape; secondly, the additional costs, waste, and losses resulting from the system by which that escape is facilitated.

Unless, therefore, it should be thought fitting that the proprietors of the better classes of property should continue to pay what is necessary to make up an exemption for the worst, and to pay also the incidental costs of the exemption, it would seem to be desirable that the law and the fact should be made consistent. This would be effected by a declaration—That the Poor's Rate, and all the other rates [or the Consolidated General Rate], should thenceforth be landlord's rates.

But if this were to be adopted, still no tenant who, before the passing of the measure, had taken the property at a rent determined by reference to the fact that he was to pay the rate, should be entitled to deduct such rate during the continuance of his term or holding; therefore, it would further be necessary to enact,—That the rate might be levied by distress of any goods and chattels of any occupier; and,—

—That, after the expiration of the time or term for which, at the time of the passing of the Act, any occupier might hold any rateable property, the occupier should be entitled to deduct any rate paid by him from any rent which might next become due from him.

It would further be desirable, in order to prevent the rate from being made to appear, under any circumstances, to be a charge upon the poorer class of persons, to declare,—That all agreements by which any occupier [of property of less than 10*l.* per annum in net annual value] might agree to forego the deduction of rate, should be void. For property of higher value this would be less necessary.

It seems to be an additional recommendation of this proposal

REMEDIES. *Liability of Owners.*

that, being natural, it is also simple, and obtains at once the object attempted by various bills and proposals brought forward in Parliament and elsewhere for rating owners instead of occupiers. All these proposals have involved distinctions between one class of occupiers and others, making one rule of imposition and one set of remedies for the occupiers under a certain value, and another rule of imposition and another set of remedies for those above that value; sometimes involving distinctions of places, as by making the measure applicable only to towns or populous places, and usually confining it to one kind of property only, such as houses and apartments; and very usually rendering the distinctions still more capricious by enabling those who have to execute the measure to make distinctions, as vestries may do now, between one owner and another. It is another recommendation of this course, that it would be self-acting, and would not require the enactment of the much-abused power of compounding with the landlords charged with the rate, and of making an arbitrary deduction to them in consideration of the payment of the tax by them.

There is one subject apparently connected with the alternative of rating occupiers, or of rating owners, which, although not immediately a question of taxation, is of such importance that it becomes our duty, in reference to the foregoing suggestions, to consider it more in detail.

To be rated to the Poor's Rates, and to pay those rates, is made in many instances the condition of voting in the election of Representatives, and upon various occasions arising in the local government of the country. It is sufficient to refer to the right to vote in the election of Members of Parliament for cities and boroughs (2 Will. IV., c. 45, s. 47), to the privileges of burgesses under the Municipal Corporations Act (5 and 6 Will. IV., c. 76, s. 13), to the right to vote in vestries (58 Geo. III., c. 69, s. 3), to the enjoyment of each of which important privileges the assessment to the Poor's Rate is made a precedent condition.

These privileges are, in all cases, conferred upon the occupiers of the rateable property. If occupiers ceased to be the immediate subjects of the Poor's Rate, it would of course follow, unless special provision were made against that consequence, that the whole of the parliamentary constituency in cities and boroughs, the whole of the constituency and of the officers in the newly modelled municipal corporations, and the whole of the constituents of the vestry, would disappear.

The difficulty as to rating owners in parliamentary and municipal boroughs has been felt to be great; the 59 Geo. III., c. 12, s. 23, entirely excepts cities and boroughs, and towns corporate, returning Members to Parliament, from the operation of the provisions for rating owners; and the 5 and 6 Will. IV., c. 76, s. 11, enables every occupier of a house, warehouse, counting-house, or

shop, in a corporate borough, to claim to be rated in his own person.

MEDIES.

Liability of Owners.

It is obviously of the first importance, in a constitutional sense, that no change should be operated in the matter of parliamentary or municipal franchise by an indirect process, or without a full recognition by Parliament of the operation to be effected.

We think, when the reasons for which the franchise has been made dependent on the assessment to the Poor's Rates are fully considered, that it will be manifest that the imposition, in the manner we have suggested, of the local Rates, on owners instead of occupiers, would not necessarily involve any change in the franchise.

The principle, that taxation is the reciprocal condition of representation, is not a principle by reference to which the franchise has been conferred on the persons assessed to Poor's Rates. For, in the first place, it is not all who are directly assessed, and who pay the rate, that are enfranchised, but only those who are assessed on a certain value, and in most cases those only who have paid for a certain time. Moreover, the franchise is in most cases given in respect of Poor's Rate alone, while the election is of officers who for the most part have no legislative or administrative control of the Poor's Rate, but who control other taxes, and who, even in the case of the member of Parliament are certainly not considered so much as protecting the Poor's Rate as the Queen's taxes; and, lastly, and which is, as we apprehend, the most decisive proof that the reciprocity of taxation and representation is not the principle involved in those privileges, there is the fact that the liabilities of occupiers to pay these taxes is only apparent, and not real, and that the real and ultimate liability affects the owner of the rents. If, therefore, the liability to taxation and the right to representation were correlative, it would follow that the owners of the rent would be entitled to the franchise instead of the occupiers.

On the other hand, the assessment to the Poor's Rate and payment of the tax are indications of the condition of the tax-payer, which, although by no means infallible, are more indisputable as matters of fact, and more extensive in their application, and altogether more convenient than any other indication; it appears to us that these facts—the mere assessment and payment—(without reference to the ultimate incidence of the burden) have therefore been accepted as affording, in ordinary cases, fair indications of the possession of that amount of property, and of that social position which are considered to be desirable in those who are to be invested with the franchise.

Taking the liability to pay the Poor's Rate as an indication merely of the general condition of the tax-payer, the principle of the franchise is quite intelligible; in that general condition of the tax-payer is usually involved a greater extent of other political interests,—the concerns in which he requires legal protection are

REMEDIES.
Liability of Owners.

more extensive,—his social relations and connections are more numerous—his capacity to participate in the benefits of good legislation or government is enlarged, and his liability to be injured by bad legislation or government is extended. The interest he will take in good government is likely to be in some manner proportionate to the amount of his advantages at stake in the business of Government. But if his franchise were merely a reciprocal consideration for his liability to taxation, it would seem preposterous to give him privileges which extended in their consequences so far beyond the mere protection of the taxes; privileges affecting not his contribution of money only, but the making and administering of taxes which concern the life and member, the property, the reputation, the religion, and the private, social, and political relations of all the members of the community.

We apprehend then that it is not as a specific protection of the Poor's Rate, or of any other tax, or as a reciprocal consideration for the payment of Poor's Rate, or of any other tax, that the franchise is conferred; and consequently the proof that the occupier does not bear the burden, does not involve the consequence that he should be deprived of the franchise; nor would it follow therefore that any practical measure which appeared to relieve him from the burden, should be followed by the extinction of his privileges. On the contrary, it would seem to be most consistent with the principles upon which the franchise is now in fact conferred, that if the owner were made, by the direct expression of the law, the person ultimately liable for the tax, still the vicarious assessment of the occupier, and the vicarious payment by him, should then still entitle him to all the privileges which he now possesses. And that as the change in the burden of the tax would be apparent, and not real, such change would involve no justification for a real change in the constituent and governing body.

It would therefore be proper to guard the enactments we have just before suggested, as it would any other more limited enactment for the like purposes, by declaring,—

That every franchise or privilege, parliamentary or municipal, parochial or other, which any occupier would have enjoyed by virtue of being assessed to, or by paying any rate, shall be enjoyed by every occupier by the like assessment to, and payment of, the [Consolidated General] Rate, notwithstanding the liability of the landlord, under the new provision, to pay the same or allow it out of his rent.

—The Tithe-owner's claims;

Having adverted to the question of the exemption of mines, and of timber and tall woods, we will now advert to the claim of the tithe-owner to be exempted from some portion of the rate now made on the full estimate of the net annual value of his tithe commutation rent-charge.

Though the lay tithe-owner would have an equal advantage

with the clerical tithe-owner in some of the exemptions claimed, we are not aware that these exemptions are actively claimed by any but clerical tithe-owners.

In the absence of any authoritative statement of the claims put forth by the clerical tithe-owners on this subject, we can pretend to do nothing more than describe those which have appeared to us to be most strongly urged by those who have written on the subject, or to have in themselves the greatest intrinsic force. Moreover, it must be observed of these, that they are not all adopted by all the writers on the subject, but that, on the contrary, various claims and arguments maintained or countenanced by some writers in the interest of the tithe-owners, are expressly abandoned or repudiated by others advocating the same interests. It is obvious, under these circumstances, that the statement of the claims of the clerical tithe-owners can only be safely taken from the claimants themselves or their accepted representatives.

As we have understood the first of these claims, it is as follows:—In the year 1830 the case of *The King* v. *Joddrell* (1 Barn. and Adol. 403) was decided, and from some expressions in the judgment of the Court, as reported, it was inferred, though it appears to us that such an inference could hardly have been made by those who had read the previous statement of the case with care, that the effect of the decision was, that the ordinary profits of farmers are rateable.

Still upon this inference the clergy claimed, and in numerous instances obtained, for a few years, a reduction in the proportion at which their tithes were rated, as compared with the scale of assessment of all the other property in the parish, it being in such cases admitted that when the farmers were rated only upon their net rental, omitting the farmers' proper profits, the parson was entitled to have a deduction made from the net value of his tithe in the same proportion that the farmers' profits bore to the net rent of their farms.

The claim which the clerical tithe-owners urged was not generally admitted; but when the Parochial Assessments Act was passing through the House of Lords in 1836, it was represented on their behalf that the declaration contained in the bill that 'no 'rate should be valid unless made upon the net annual value of 'the several hereditaments rated thereunto,—that is to say, at the 'rent at which the same might reasonably be expected to let from 'year to year,' &c., would repeal that operation which they attributed to the decision in *Rex* v. *Joddrell*. It was conceded that if they had any legal ground for their claim, it ought not to be interfered with; on the other hand it was not admitted that they really had any such legal ground for their claim; but with a view not to prejudice either the claim of the clergy or the adverse claims of the landowners, a proviso was inserted in the Bill in these words:—'Provided always, that nothing herein contained shall

REMEDIES.

'be construed to alter or affect the principles, or different relative 'liabilities (if any) according to which different kinds of heredita- 'ments are now by law rateable.'

After the passing of the Act doubts were generally entertained as to the effect of this proviso, and, in order to prevent unnecessary litigation, a case was chosen for the purpose of raising and trying the question in the Court of Queen's Bench. The tithe-owners and land-owners, on the recommendation of the Poor Law Commissioners, and of the Rev. Mr. Jones, one of the Tithe Commissioners, agreed very generally to forego the prosecution of the then pending or impending appeals until the decision in this case was obtained. The case so chosen was that of *The Queen* v. *Capel, clerk*. The Court of Queen's Bench at length, upon a carefully drawn case, and after ample argument, gave their decision against the claim of the tithe-owner. They decided that the rule of rating which the Parochial Assessments Act propounded was applicable to tithes, and that the proviso did not support the claim of the tithe-owner to be exempted from the general rule laid down by the Act.* This decision of the Court of Queen's Bench has, as yet, been acquiesced in by the tithe-owners, but with an understanding either that their claim, in connexion with the rating of tithe, is to be brought under the consideration of the Legislature, and it was with this view, and at their instance, that the Acts for exempting stock in trade from the Poor's Rate have been made only temporary instead of permanent Acts.†

After the claim founded upon the decision in *Rex* v. *Joddrell*, another claim which we have understood to have been most strongly urged by the clerical tithe-owners as a matter of legal right, was on the occasion of the exemption of 'stock in trade' from the Poor's Rate. On that occasion we understood their claim to be of this kind:—If stock in trade be exempted from the rate, then the entire burden of the poor must fall upon the properties still remaining subject to the rate, and the clerical tithe-owner would therefore have to bear a larger burden in consequence of the exemption; it is therefore fair that he should have some compensation for the increased burden. As a means of affording such compensation, it was proposed that the rateable value of his tithes should be reduced in some proportion equivalent to the value of stock in trade withdrawn from the rate.

This claim seems to us to be inadmissible; for though it is true that by withdrawing 'stock in trade,' the burden on the clerical tithe-owner is proportionally increased, the burden is also increased, in exactly the same proportion, upon the landholders, the house-

* The Queen against Capel, Clerk, 12 Adol. and Ell., p. 382.

† A Bill brought into the House of Commons by Mr. Hodges and Mr. Wrightson, and ordered to be printed on the 26th February, 1841, was understood to be in accordance with the views of a large portion of the clerical tithe-owners.

holders, and all the other tax-payers remaining subject to the rate. Thus, every farmer, every occupier of a house, or of tithes impropriate, or of propriations of tithes, of coal mines, or of saleable underwoods, and indeed every trader not having rateable stock or a residue of profit, would have an equal claim with the clergyman to have his burdens also proportionally reduced. But if all the subsisting taxpayers are to have their share of the burden reduced in the same proportion, it is obvious that no advantage would accrue to the clerical tithe-owner. The clerical tithe-owners did not, however, suggest that the farmers, householders, and other ratepayers should all be compensated, as well as themselves, for the withdrawal of stock in trade: but they made the claim to compensation for tithe, that is, parson's or vicar's tithes, exclusively. They claim, therefore, that the farmer, who has no benefit by the exemption of stock in trade, but suffers by that exemption in the same degree as the tithe-owner, should not only bear his own additional burden, but also compensate the tithe-owner for his; that the occupiers of houses, tithes impropriate, and appropriations, coal mines, and saleable underwoods, deriving no benefit from the exemption of stock in trade, but having, like the clerical tithe-owners and the farmers, their burdens equally increased, should also, besides bearing their own share of the extra burden, contribute to compensate the clerical tithe-owner. REMEDIES.

It is easy to comprehend the objection of the owner of tithe, or of the farmer, or any other person, to the withdrawal of stock in trade from the rate; and it is easy to understand a demand that the same persons who are exempted from the tax in respect of stock in trade should be made to contribute in some other way; but it seems to us impossible to admit that because traders are exempted, farmers should be bound to compensate the owners of tithe for the advantage given to the traders.

The claim of the tithe-owner in this respect is not, as we understand it, confined to those comparatively few parishes in which stock in trade was formerly rated, and in which they, in common with the farmers and other persons not rateable for stock in trade, have actually lost something by the exemption of stock in trade; but we understand the claim to be made for a more general compensation, to extend not only to those parishes, but also to parishes in which stock in trade never has been rated, and even to the parishes in which no stock in trade exists to be rated.

It must be observed that the question of rating stock in trade is a question in no way affecting the stock used by the farmer in rendering his land productive. The liability for stock in trade was confined to 'inhabitants.' The liability of the farmer was as 'occupier' of the land, and his liability was always measured by the annual value of the land, produced by his manurance and the use of his stock. The distinction was established in the first case

REMEDIES. in which an attempt was made to tax a farmer distinctly for his stock.*

Besides the general reasons to which we have adverted, as the grounds for the claim of the tithe-owners to a compensation for the withdrawal of stock in trade from the Poor's Rate, we are informed that they also urge the existence of more specific grounds for this claim. It is alleged that, at the time when the Tithe Commutation Act was in progress, there was a distinct understanding in Parliament that the tithe-owners, in consideration of their acceptance of a fixed instead of an improvable income, were to be secured against any variation in the mode of taxation which then prevailed, and that it was the object of the provision in the Tithe Commutation Act (6 & 7 Wm. IV. c. 71, s. 69), by which it is declared that 'every rent-charge, payable instead of tithe, shall be subject 'to all Parliamentary, parochial, county, and other rates, charges, 'and assessments, in like manner as the tithes commuted for such 'rent-charge have heretofore been subject,' to give effect to this understanding. We do not possess the information which would enable us to contribute any evidence as to the existence of the alleged understanding; and we, for obvious reasons, forego the discussion of this subject, contenting ourselves with the present bare statement, as we understand it, of this part of the tithe-owners' case.

There is another claim for protection sometimes urged on behalf of the clerical tithe-owners, to which we think it also proper to advert, as affecting some of the local taxes, although we are not aware that it is ever made in reference to the Poor's Rate.

It is chiefly in respect of the Police Rates and Highway Rates, and partly of the County Rate, that the protection in question is called for. It might be urged that the owners of tithe, even when it was taken in kind, could scarcely have derived a share of advantage from the application of these taxes proportionate to the amount of the rateable value of that tithe; but that since the tithe has been commuted, the rent-charge given in lieu of the tithe can be in no way benefited by the application of these taxes. The claim of the owners of the commutation rent-charge does not, however, extend to an entire exemption from these taxes; but they admit that, as residents, occupying dwelling-houses, glebe lands, or other rateable property (except the rent-charge), they derive the same advantages as other residents and occupiers; and they

* Reg. *v.* Barking, 2 Lord Raymond 1280. Vin. Abr. tit. 'Poor.' 426, decided in the year 1707. The case is somewhat remarkable for the quaintness of the law Latin in which the rule of the Court of Queen's Bench was drawn up:—"Super matura deliberatione hic habita, consideratum est per curiam hic, quod firmarius, Anglicè 'a farmer,' non erit onerabilis et taxabilis ad ratas pauperum pro peculiis, Anglicè 'stock;' et quod artifex, Anglicè 'a tradesman,' est onerabilis et taxabilis pro peculiis, Anglicè 'stock,' in arte, Anglicè 'trade.'"

REMEDIES.

therefore admit that, in respect of their residences, lands, and other property in occupation, they should be taxed like other ratepayers.

This claim appears to us to involve a somewhat larger question, and one deserving of consideration.

While tithe could be taken in kind, it is obvious that every expenditure which increased the produce of the land, or which gave greater value to that produce, increased also the value of the tithe rendered in that produce. Thus every expenditure in sewerage or drainage, or on highways, by which production was facilitated, or by which the value of produce was enhanced in the place of its production by improved access to markets, was directly beneficial to the tithe-owner in a manner not essentially different from that in which it benefited the farmer or the landlord. In as far also as the expenses of police, with all the incidents of courts of justice, gaols, and the like, by giving security to property, encouraged improvement and production, the tithe-owner was eventually interested, as tithe-owner, in the purposes of rates, applied in the manner of the Police and County Rates, in much the same manner as the cultivator or owner of the land from which the tithe was produced. Thus, while the tithe-owner was interested in the produce of land, and in the local value of such produce, as affected by the condition of the locality, he could not, upon any principle of taxation, have made out a claim to exemption from the taxes, the purpose of which is the improvement or security of property; for if the benefit conferred on the taxpayer by the application of the tax be regarded as the criterion or ground of his liability, the tithe-owner enjoyed the benefit in the improvement of his tithe, in quantity and value, not less than the cultivator and the owner of the land in their respective shares of the produce of the land; and if, on the other hand, the ability of the person to contribute be considered as the ground of his liability, then the tithe-owner's ability was evidently dependent, in the like manner and measure as other property, on the application of these taxes.

Proceeding, then, on the assumption, which indeed does not appear to be much disputed, that up to the time when the tithe was commuted, the tithe-owner was justly called on to contribute to taxes of this kind, it would seem to follow that he should still continue chargeable in respect of his commutation rent-charge. But here a question arises as to the extent to which he should continue chargeable.

When the tithe is commuted for a rent-charge, the value of the tithe has been brought to its then amount partly by the application of these taxes. Now, as this amount is secured to the tithe-owner in the shape of a rent-charge, it obviously follows that the value of the rent-charge is equally the result of that expenditure which had contributed to the value of the tithe in kind; and if the

REMEDIES.

tithe-owner was justly called on to pay a certain sum in taxes in respect of the amount of his tithe, he may justly be called on to pay the same amount of taxes in respect of the same amount of rent-charge. But his rent-charge being from that time a fixed income,* which cannot be improved by any further improvements in the land, it becomes after this time inconsistent with that principle which regulates taxation by the benefit derivable from a tax, that he should be forced to contribute, as tithe-owner, to any new rate, or to any addition to those old rates, which may be imposed for the improvement of property.

Now the tendency of legislation and of administration certainly is to the creation of new taxes and to the increase of old ones. There is scarcely an instance of any tax being wholly abandoned without some new tax being created, or some old one applied in substitution for it. The whole history of the local taxes shows both the progress of the legislature in authorizing new taxes, and of the local administration in constantly increasing their amount. The reason is to be found in the increasing prevalence of the conviction, that certain objects unattainable, or imperfectly attainable, by the separate expenditure of individuals, may be advantageously realized by combined expenditure. It will often occur that a great addition of tax is a great improvement of income, where the income is, like that of the cultivator or landlord, capable of increase, as in the cases of expenditure on sewerage, roads, navigations, sea-walls, &c. No person, who can foresee that a tax of one shilling in the pound will produce to him an increase of two shillings in the pound, will object to the imposition of the tax. There are instances in which a single improvement rate has exceeded manyfold the entire net value of the land before the rate was imposed, and has even exceeded one-third of the entire improved value.† Thus, if proportionate improvements in profit can be foreseen, there is no extent to which taxes for improvement may not be carried; for instance, it is not a merely imaginary case that the whole of a district might, by reason of some disadvantage, be uncultivable, and produce no rent, or an exceedingly small rent, but that this disadvantage might be removable by a costly improvement. Let it be supposed, for the sake of example, that in such a case the rental of the district did not average a shilling an acre before the improvement, and amounted in the whole district to 1,000*l.* a-year, and that before the contemplated improvements

* The fluctuations in the amount of the rent-charge effected by the variations in the averages are not a material consideration in the present question.

† See an instance in the case of the Queen *v.* Vange, 11 Law Journal, M. C. 117, in which it appears that in 1621 the owners of certain lands which were overflowed at spring-tides, contracted with one Joas Cropenberg to fence the grounds from the inundation; and, in consideration of his doing so, and keeping up the defences, to give him one-third portion of the whole of the lands in fee. The costs of the defences have for several years not only absorbed the whole of the rack-rental of this third portion of the land as it now exists, but also an additional sum raised by assessment on the other two-thirds of the land, the amount of which is not stated.

REMEDIES.

the tithe was commuted for a fixed rent-charge of 300*l.* a-year. Let it be further supposed that a certain improvement would increase the rental of the whole district to 10,000*l.* a-year. It is obvious that the owners of the land would generally be interested in paying the cost of any such improvement, provided that it were less in amount than 9000*l.* a-year—as, for instance, they would be interested in paying a rate of 10*s.* in the pound on the improved rent, for there would then remain to them a net rent improved by the tax from 1,000*l.* to 5,000*l.* a-year. But the owner of the fixed rent-charge could not participate in this benefit—his rent-charge would remain 300*l.* a-year; and if he were taxed on his rent-charge, in common with the rest of the district, at 10*s.* in the pound, his net income would be reduced from 300*l.* to 150*l.* a-year. It is true that this case would be an extreme one, if it were adduced as an example of what would take place in any short period of time; but if a long period of time be taken, it will not be so violent a supposition. For if the tithes had been commuted a hundred years ago, and their value at that time given as a perpetual rent-charge, subject to all the taxes imposeable in respect of improvable incomes, the tithe-owners would, in the course of the last hundred years, have suffered at least a tenfold increase of taxation, without participating in that improvement of income which has made a great part of this taxation a benefit to those whose incomes have increased in a greater degree than the taxes.

The future operation of taxation on the tithe commutation rent-charge will probably, in course of time, take place in this manner, and produce an effect which was not, we believe, anticipated in the passing of the Tithe Commutation Acts. It was quite clearly understood at that time, that there was to be assured to the tithe-owners, lay and clerical, an income as nearly as possible equivalent in real value to their then revenue, to be rendered, by the provisions as to averages, independent as far as possible even of fluctuations in the value of money. With this assurance of a certain revenue, the tithe-owner abandoned his prospect of increased revenue from improving cultivation and rising prices of produce. But little, if any attention was paid to the operation upon the rent-charge of increasing taxes, as being capable, while they improved improvable incomes, of almost annihilating, in the very same process, a fixed income.

On these grounds it might have been contended that it was a fair consequence of the commutation of tithes into a fixed income, that the amount of burdens then borne by the tithes should have been also fixed. It is not of course meant that any new general burden, like the Income or Property Tax, should not be imposed on the owners of rent-charge, as such owners; but that the taxes upon tithe subsisting at the time of the commutation, and the taxes in substitution for them, and future taxes generally for purposes of improvement, should not be laid on the unimprovable income

REMEDIES. of the owner of the rent-charge; and that where he is to be subjected to future taxation, it should be done directly, and not by inference from provisions which were applicable to tithes before their commutation.

If this principle were admitted, its application would be easy in case a consolidation of local taxes into one general rate took place. No more would then be required than to declare that the owner of the rent-charge should be taxed, in that general rate, in no greater amount than the average amount of rates during the seven years preceding the commutation. If no such consolidation took place, the application would be somewhat more difficult; but still, inasmuch as all rate-payers would participate equally, or nearly so, in the burdens of the Poor's Rate, it might be effected by declaring that the owner of the rent-charge should be taxed to the Poor's Rate in the amount paid by him for all rates in the average of the seven years preceding the commutation, and that he should be exempt from all other of the local rates and taxes.

There is still another claim urged by the tithe-owners—one to exemption and another to protection.

Their remaining claim to an exemption is, as we understand it, as follows:—They urge that in rating land, houses, tithes impropriate, propriations of tithe, coal mines, and saleable underwoods, only upon their net annual value or rental, the rate is laid upon a pure net profit for which the landlord or tithe impropriator or appropriator gives nothing or does no service in return. That the clerical tithe-owner, on the contrary, gives his personal services in return for his tithe; that therefore the value of his services should be set off against the net value of the tithe, and that his net profit is only so much of the value of the tithe as is over and above the value of his services. That, therefore, in fairness, he should not be rated for the whole value of his tithe, but only on the residue of the value of his tithe, after allowance made for the value of the parson's or vicar's services. In proof of the justice of this claim, it is urged that income derived from professional exertions is in no other case the object of the tax. In order to fix the value of the service to be allowed for in the valuation of the tithes, it has been proposed that a deduction should be made in all cases, from the net annual value of the parson's or vicar's tithe, or tithe commutation rent-charge, equivalent to the salary of a curate.

The price, service, or other consideration which the owners of lands, of houses, of canals, of railways, of bridges, of lay tithes, or of stock in trade, or any other kind of real or personal taxable property, may have given for it, is never regarded in fixing the rateable value of the property, or in assessing the occupier. It is rarely that any property has been acquired by a man or his ancestors without some cost or sacrifice; but admitting that such cases

may exist, the great majority of properties, real and personal, have undoubtedly been acquired by payment of a full consideration for them in one way or another. Sometimes it has been by simple purchase for their value in money, sometimes the present value has been produced by costly ameliorations, reclamations, improvements, and erections constituting the bulk of the value, and not unfrequently the enjoyment of the property is only the compensation of still continuing services, as in the cases of great numbers of labourers of different descriptions, who have cottages or habitations as part of their hire, of stewards, agents, resident officers of public institutions, public servants in various capacities, who have their residences and other emoluments from land as the compensation in part or in whole for their continuing services; but in none of these cases is the occupier allowed to set off against the rateable value the consideration he gives or has given or paid for his estate. Indeed, if he were allowed to do so, it would evidently amount to an exemption from all taxation of those properties which the owner had acquired by cost or sacrifice equal to or greater than their value; but, on the contrary, the annual value of the property is alone regarded as the criterion of the liability in all cases. The original consideration for which the property was obtained being put entirely out of view, it follows that no difference can be made whether the payment, sacrifice, expenditure, or service by which a property is acquired, takes effect in one act, or is spread over a period more or less long: thus, whether an estate or a stock be purchased and paid for at once, at its full improved value, or whether it be improved by sudden or by gradual outlay, or by constant sacrifices of present rent or other profit, or whether it be paid for by instalments in money or in service, these differences are all excluded from regard in rating the property, by the general principle that the consideration given for the property does not affect its rateable value.

The clerical tithe-owner is not an owner who has completed his purchase, and paid the full consideration for his tithe as an owner of a landed estate, as an impropriator or appropriator of tithe may be supposed to have done; but he has a life estate, for which he gives the consideration only in proportion as he enjoys it, the payment or consideration on his part being the service of the Church. He is therefore like a purchaser who charges his estate with a mortgage, and pays the purchase money by instalments, the only difference being that the consideration which he is bound to give is service, and not the usual consideration, money.

As compared with the landlord, or with the impropriator or appropriator of tithe, the clerical tithe-owner therefore has nothing to complain of in the fact that he is not allowed to set off the consideration he gives for his estate in his tithe against the rateable value of that tithe; but this claim to be rated for less than the value of his estate, though his title is only a conditional one, is a

REMEDIES.

claim to an advantage greater than is enjoyed by those who have the most unconditional and absolute title in their estates.

These remarks seem to us to supply the answer also to the argument for some exemption in favour of the clergy drawn from the analogy of other professional or official incomes. Professional or official income, the wages of talent, skill, or bodily labour, are all exempt from Poor's Rate, and the other rates of the like incidence, when the payment for the service is not made in lands or houses, or some other of the kinds of property made specifically rateable; but where any kind of rateable property is enjoyed in consideration of service, it continues rateable just in the same manner as if it were the absolute property of the possessor, or had been purchased by him for its worth in money. Thus, if lands or a house are enjoyed to his own private use by any professional man or public officer, as a reward in part or in whole of his service, he is, beyond doubt, rateable for that land or house, although if he received the value of the land or house in money or in property, not of one of the rateable kinds, he would not be rateable for it. Thus, all the labourers, agents, stewards, professional men, masters of free or public schools, officers of charitable and other *quasi* public institutions, public servants and officers who have the enjoyment of local visible property, as a reward of their services, are rateable. Lord Mansfield says, "It is clear 'that where a servant occupies a house and two acres of land, 'whether he pay for them by rent *or by service*, it can make no 'difference as to his being rated; he is equally liable."* "Quo 'nomine occupier can make no difference whether by gift or by 'wages."† There is, in fact, then, no such official or professional exemption as that supposed, and on which supposed exemption this argument is founded; but, on the contrary, where the reward for professional, or official, or other services is given in the shape of any property of the like kind with those described in the statute of Elizabeth, and similar to the tithe or glebe or parsonage of a clergyman, it is certain that the occupier is rateable. The law therefore does not afford the analogy on which this claim rests. It would, however, be quite consistent with the law which exempts professional, official, and other service from the tax, when paid in money, that the clergy should be exempted from all liability in respect of dues, offerings, lectureships, and pensions, when these latter are not given in commutation for tithes.

The clerical tithe-owner is not, however, understood to claim more than an exemption equivalent to the statutory stipend of a curate. It seems to us that he ought on the present view to claim exemption on the whole of his tithe, or on none at all. The entire tithe is the reward of his spiritual service; where that ser-

* Rex *v.* Matthews, 1 Bott. 170.

† Lord Bute *v.* Grindall, 1 Bott. 185. See also Rex *v.* Hurdis, 1 Bott. 191.

REMEDIES.

vice is worth the reward for it, he would, upon the grounds now urged, be entitled to set it off against the whole value of the tithes, —in other words, to an entire exemption from rate. Except, therefore, where it is admitted that the spiritual service is of less value than the tithe,—a matter certainly incapable of estimation in the process of assessing a tax,—it must be assumed that the tithe and the service are the equivalents the one for the other. It seems to us that if he urge this claim he cannot escape from one or other of two difficulties; either his services are worth the whole or more than the whole of the tithe, in which case the whole tithe should be discharged from all the burdens subject to which he took it,—a claim which perhaps nobody would assert; or his services are worth less than the tithe, with all its burdens, in which case he is, by the admission, and notwithstanding all those burdens, over-compensated, and therefore not aggrieved by the bearing of the present law. It is in this latter difficulty that we conceive those persons to be, who claim an allowance in the rating of tithe equivalent only to a curate's salary,—the claim appearing to involve the admission that all the income above the curate's salary, remaining after the payment of the public burdens, is compensation in excess of the value of the services.

Although, as it will have been seen, we do not concur in many of the views of those who have made the claims above described on behalf of the clerical tithe-owner, we do nevertheless consider that clerical tithe-owners, in common with some other classes of ratepayers, have a very just ground of complaint as to the manner in which their property is liable to be valued, and is, in fact, valued, to the local taxes, in a very great majority of places throughout England and Wales, and that they are therefore fully entitled to a protection as effectual as can be devised against the injury.

—unfair Valuation of Tithe and some other properties;

It is extremely difficult to determine the gross or the net value of farms, houses, coal-mines, or underwoods, so as to be certain of successfully defending the estimate of their value upon an appeal. Even if the actual rents paid would serve for a guide in making the estimate, there is no means of ascertaining the rent if the landlord and the occupier both refuse, as both are interested in refusing, to divulge the facts. Added to this, the rate is made for the most part by the farmers or householders, who have proved by a long experience that they are not inclined to value very strictly the classes of property in which they are interested. But, on the other hand, the exact value of the rent-charge, whether of the clerial or lay tithe-owner, is now known ine very parish, and there is no difficulty, and, as far as we know, no hesitation in rating him upon the uttermost farthing of his liability thus ascertained. He is entitled to none of those allowances from the gross value of his tithe which, being indefinite in their amount, allow of a certain latitude in favour of the individual ratepayer, such as the allow-

REMEDIES.

ances for repairs, renovation, or insurance; while those outgoings for which he is entitled to an allowance are very definite; and are exactly calculable, and there is no difficulty in limiting the allowance with the most perfect arithmetical accuracy.* He is rarely, if ever, combined with a majority in vestry, by whose assistance he might procure for himself liberal deductions from the well-known gross value of his tithe: on the contrary, it is not unfrequent that the amount of deductions to which he is unquestionably entitled, is successfully refused to him,—more especially where he shows the reluctance so natural to his position, to urge his rights very strenuously, or to maintain them by a recourse to litigation. But where he is assessed upon the uttermost value of his rent-charge, diminished only by an allowance for outgoings calculated in the strictest manner, he has no ground for appeal as being himself overrated, and his only remedy is to institute an appeal against the individual ratings of all his parishioners who are under-rated. This remedy, making each individual ratepayer in his own parish a defendant, would be so unpopular,—the proof of the extent to which each house and each other property is under-rated, would involve so vast a mass of evidence,—so complete and entire a valuation by the appellant of the whole property of the parish,—that the relief from any overcharge, however gross, could never compensate him for the mere expense and trouble of preparing the evidence necessary to enable him to use his only remedy with success. It is also obvious that the personal and universal irritation he must produce amongst his parishioners by appealing against all their individual ratings, is a consequence to which a clergyman could rarely desire or venture to expose himself.

The clergyman may, therefore, be said to be practically without remedy by way of appeal for this injustice, which is both general in practice and great in amount in the individual cases. We believe that in many parishes both farms and house property would still be found to be assessed at sums less than half their legal rateable value. In a large majority of cases we think it would be found that the assessment is upon less than two-thirds of their true rateable value. There are above 11,000 parishes and townships maintaining their own poor, in which no valuation has taken place under the Parochial Assessments Act; and we believe that in these parishes little or no advance has been made

* The practice with regard to these deductions is, however, not so remarkable for its strictness against the tithe-owner, as for its capricious variety. Thus, in an investigation made by the Rev. Mr. Howman, the rector of Bexwell in Norfolk, into the rating of tithes in 190 parishes in the county of Norfolk, it appeared that the gross value of the whole of the tithe was 203,140*l.* 2*s.* 11*d.*, and that its rateable value was estimated at 167,356*l.* 10*s.* 5*d.* But that in individual instances the allowances from the gross value varied from ½ per cent. to 46 per cent. Thus the tithe-owners were, as amongst themselves, contributing to county rate and similar general charges upon rateable values averaging 82 per cent. of the gross value of their tithe: but individuals amongst them were contributing upon rateable values varying from 54 to 99½ per cent. of that gross value.

towards a correct valuation of lands and houses. Even in the 4444 places in which it appears that some valuation has been attempted since the passing of the Parochial Assessments Act, a very great proportion are still assessed nearly as much below their true value as before; only the valuation as between farm and farm, and between house and house, has been somewhat corrected. As we have before observed, some of the best and most scrupulous valuers have admitted, that for the sake of avoiding dissatisfaction amongst the rate-payers, and of preventing appeals, and of anticipating future depreciations of property, and generally for the sake of keeping on the safe side, they have purposely made their valuations 10 or 15, or even 20 per cent. below their own actual estimate. These admissions have been made to us by professional valuers in cases where, after all, their valuation has been objected to as being too high, and the parish officers, or vestry, or parishioners, have refused to abide by or accept the valuation. In all these cases, if the tithe-owner is rated for the full value of his tithe, he must be over-rated in some proportion, approaching, in the respective cases, 50, 33, 20, 15, or 10 per cent. of the whole of the rate he pays. Even in the few places in which professional surveys have been made, and where some approach to fairness would therefore appear to have been attained, it has been possible for the overseers to set them aside to any extent that they and the mass of the parishioners may please, and this has very frequently been done with the concurrence of the landholders and householders, without even the pretext of a decision of special sessions to warrant the deduction. In other cases the valuation has been got rid of under colour of an appeal against it to special sessions, the overseers favouring or not resisting the reduction claimed by an appellant, which reduction being obtained by the decision of the justices there, became a scale for reducing the valuation for other property subject to the rate; the clerical tithe-owner, however, so far as we have learned, not being often admitted to the benefit of this operation. Thus even a professional valuation, as the law now stands, is no security to the tithe-owner against the species of injustice to which we are now adverting.

We think it would be a low estimate of the extent to which the tithe-owner is wronged by the under valuation of other property, even in the average of cases where professional valuations have been made, if his loss were stated at 20 per cent. For the 10,000 or 11,000 other places, where no such valuations have been made, we think the injustice to the tithe-owner would most probably not be found to be less, on an average, than 30 or 40 per cent.

This species of injustice is not confined to the clerical tithe-owner, for the tithe commutation rent-charges of the impropriators and of the appropriators are exactly in the same position, except perhaps that these, especially the impropriators, would be more

REMEDIES.

willing to right themselves by appeal, if the appeal were not in this case intrinsically of so difficult a character. All persons likewise whose income derived from rateable property can be strictly proved, are liable and are in practice subject to the same grievance: thus, in all cases where the annual income must be divulged or published, as in the cases of railways, canals, docks, and other properties belonging to extensive proprietary bodies, whose profits are declared and published from time to time, there exist the same means of rating the proprietors upon their full net income, and the same practical difficulties in applying their remedy, as exist in the case of the tithe-owner.

—examination of a remedy proposed by the Clerical Tithe-owners;

Notwithstanding that we recognise the grievance to which the tithe-owner and some other classes of ratepayers are thus subjected, in being rated upon the full value of their property, while other property, the value of which is less definite, escapes from its share of contribution, still we do not admit the fairness, or even the adequacy, of the means which have been proposed on behalf of the clerical tithe-owners to remedy the injustice.

It has been proposed to compensate the clerical tithe-owner for his admitted loss, by allowing him some per centage in compensation for his disadvantage. Twenty-five per cent. has been proposed as a fair allowance to him. We think this objectionable on many grounds; first, on general principle, because by recognising the under-valuation as a fact, requiring not to be corrected, but to be balanced, it would countenance and sanction the abuse. It would even make the under-estimation permanently necessary for the sake of justice; for if the 100*l.* net value of tithe were to be rateable on this account only at 75*l.*, it would become necessary, for the sake of justice, that every 100*l.* net rent of land or other property should be always reduced by under-valuation to 75*l.*

—Proposal of a remedy.

The remedy proposed therefore is not to correct, but only to reverse the existing injustice; for if, after tithe were reduced from 100*l.* to 75*l.*, any other property should be rated upon the full 100*l.* without an equivalent reduction, it is clear that the tithe-owner would have the unjust advantage which he now fairly objects to in others, and the property so rated upon its full value would be subject to the injustice of which the tithe-owner now fairly complains. We object therefore to this remedy, as rendering it necessary, for fairness' sake, to continue, and even to extend further, that under-valuation of which the injustice is now manifest, and now provokes correction. We also object to the proposal as inadequate to remedy the grievance in two respects,—first, because the grievance complained of now extends to other properties besides clerical tithes, and the remedy therefore, if applied at all, should be applied to every property in proportion as the income derived from it is strictly ascertainable by the parish officers,—a remedy, the application of which could only be made fair to all kinds of property by observing the paradoxical rule, that where

REMEDIES.

the valuation was most certain, there should be the greatest reduction or departure from it. Next, it is inadequate, because, attempting to compensate for under-valuation, it does not check the under-valuation, but, as before observed, justifies it, and would soon provoke an extension of the evil; for, if the tithe-owner were to be allowed 25 per cent. off every 100*l.*, to compensate him for the under-valuation of other properties, there is nothing in this arrangement to prevent the overseers, at the next step, from reducing those properties which before were supposed to be rated in the proportion of 75*l.* to the 100*l.* to the still lower proportion of 50*l.* to the 100*l.*, in which case the tithe-owner would be worse off than before.

—a compulsory Valuation; and—

The remedy we should propose as fair to all parties, and one which would secure a much greater pecuniary advantage to the clerical tithe-owner than has ever been proposed to be given to him by way of compensation, is,—First, that valuations for the Poor's Rate (or the General Rate that we have proposed) should be compulsory, or at least subject to the discretion of some indifferent authority, instead of being, as now, dependent on the pleasure of the parish officers, or the representatives of the parish in the Board of Guardians;—Next, that a remedy against an unequal rate should be provided, more cheap and more effective than the present appeal to special sessions, and, as far as possible, self-operative.

It is clear that if a fair valuation could be secured, and when made could be supported by persons not interested, as the overseers mostly are, in its overthrow—the result would be a protection to all persons in the situation of the clerical tithe-owners to an amount equivalent to their present loss, whatever that may be.

In this result the clerical tithe-owner is interested only in the same manner as other persons suffering in any way from unequal rating. We have detailed in a former part of this Report (p. 50) some of the motives which have operated to induce officers to under-estimate the property in their parishes. We will only shortly observe here, that the motive to avoid a full assessment to the several species of County Rates, Hundred Rates, and Borough Rates, applies universally to all classes of parishioners within the same parish, and that there is no class of parishioners or representatives of a parish who have any motive to raise the general assessment of the parish to its proper level. On the contrary, while all the other parishes in a hundred, or county, or borough, are more or less under-rated, it would be in fact a decided injustice to raise the valuation of any one parish up to the full legal standard. It would therefore not be justice, but folly, in the officers or representatives of a parish to raise its assessment to the legal level, without some security that the like would be done by all the other parishes within the same hundred and the same county, or the same borough or other district of aggregate taxa-

REMEDIES.

tion. For this single reason it seems to be absurd to expect that any *bonâ fide* valuation can be obtained or secured, if its adoption or maintenance is to depend, as at present, upon each parish itself.

The interest to avoid contribution to aggregate rates is one which tends to produce a general under-estimate of all the property in a parish: there is another also which produces an effect nearly as general—the interest of the valuer, or the desire of the overseers to avoid objections, and to produce general satisfaction with the valuation or rate, by making it apparent to every individual that he at least is under-rated. This does very often succeed in preventing appeals, for a person knowing himself to be under-rated can only discover that he is still unfairly rated, or can succeed in showing the fact on an appeal, by examining into his neighbours' cases, and proving that they are under-rated in a still greater proportion.

Another motive more partial, but more active and intense, and tending to more positive injustice and inequality within the parish itself, is the interest of each person, and of each class of persons similarly situated, to avoid taxation in their own particular cases as much as possible. This interest is rarely indulged in individual cases, but it manifests its effects usually in favour of a whole class of persons, and consequently in opposition to the interest of other entire classes of persons. An overseer would rarely venture very conspicuously to under-rate his own property, though this has sometimes been done with astonishing boldness. The effect is more frequently produced by securing the appointment of overseers, or especially of an assistant overseer, who will be regardful of the interests of a class of persons actively pursuing their own advantage in the management of the parish. These persons, by the instrumentality of the overseers, succeed not only in undervaluing their own property, and sometimes in wholly exempting it, but they also obtain the means of defending the rates made for their advantage, by expending the common fund of the parish against any person injured by their rate, and resolute enough to resist it, thus making the defence of their wrong an additional burden upon those who were before oppressed, at once rendering litigation on their own part less burdensome, and adding an additional motive to objectors to refrain from resorting to their legal remedies. By the same arrangement by which their own contributions are diminished, they command the subsequent expenditure and disposition of the contributions of all the rest of the parish. It is not to be supposed that those active bodies which govern parishes are usually a real majority of the parishioners, or the possessors of a major part of the property of the parish; if it were so, the gains by the oppression of a minority, when distributed, would be but a small personal advantage, and the motive to injustice proportionally less active. On the contrary, the instances of most pertinacious injustice and

litigation are found in those cases where a very small proportion of parishioners succeed in getting the appointment of officers and the management of a parish. In large parishes the persons interested in the better kinds of property do not habitually take an active part in parochial business, and those few who do are mostly divided amongst themselves into different parties, and these, again, into different subdivisions, according to their different kinds of property. Some are occupiers of ordinary dwelling-houses; some few have superior ornamental properties; some again may be farmers; and there is always the tithe-owner. Each one of these classes of itself constitutes a minority, and cannot, as a body, protect itself; and because it does not combine with other minorities suffering similar oppression, the aggregate of these minorities, although they may altogether form a decided majority of a parish, is at the mercy of some other more active party, itself a minority. This state of things is more or less the condition of a great portion of the most populous and most opulent and improved portions of the country, and it adds acrimony and party zeal to the other sufficiently strong motives of self-interest to make unjust valuations. REMEDIES.

It will be observed that it is solely through the inefficacy of the present means to obtain a fair valuation to the Poor's Rate in the individual parishes that it became necessary to make provision for a special valuation for the County Rate, to check and over-ride the overseers' assessments. It will be seen, by the abstract at pp. 55, 56, in how few instances an attempt has been made by county justices to procure an amended valuation under the 55 Geo. III. c. 51; and we believe we are justified in saying that in the majority of the instances in which the attempt has been made, it has been unsuccessful. It was scarcely to be expected that the mere returns and personal examination of overseers, by a committee of justices in the petty sessional divisions, would effect any substantial or extensive correction of the parochial valuations. But whether this process be capable or not of effecting the object for which it is provided, it would still be entirely superfluous if in the first instance a trustworthy valuation could be secured for the purposes of the Poor's Rate.

Indeed the correction of the valuation for the Poor's Rate is the only effectual and self-operative means to a correction for all the other rates. For it will also be apparent that the injustice effected by an unfair valuation is of course repeated in every rate imposed, whether lawfully or only by common practice, on the same basis as the Poor's Rate; in other words, every injustice in the valuation to the Poor's Rate operates in the like proportion through the whole series of local taxes, and the unjust motives to resist a correct valuation are multiplied accordingly. Nor indeed is the injustice confined to the local taxes. The valuation to the Poor's Rate is made also a criterion of the value of the real

REMEDIES.

property liable to the Property and Income Tax, under schedules A and B. It is true that this valuation is not conclusive on the assessor; but it is certain that it must, in the great majority of cases, be adhered to in the assessments to that tax.

With all the motives we have indicated as operating, some on individuals or classes of persons, to escape a share of their taxes, to the prejudice of their fellow-parishioners, some on the whole body of the parishioners to escape their burdens, to the prejudice of the rest of a county or hundred, or borough or police division, or of the county at large, but all equally tending to the general lowering of the assessments, it is unreasonable to hope that parishes, or the representatives of parishes, will spontaneously adopt or in any way aid the adoption of valuations which shall be universally fair, either within each several parish or between one parish and another. The valuation is a check that should be imposed upon parishes: it is entirely a mistake, indeed an evident absurdity, to expect that each parish, or the governing party or body in a parish, will adopt an expensive process, which is only to serve for the restraint and control of itself, and for the protection of interests which it must regard as adverse to its own.

General as the evil is, and much as it is to be desired that its remedy should be immediate and simultaneous, we are nevertheless satisfied that any attempt to make a general re-valuation in one connected or simultaneous operation must fail of attaining what are the main objects of the process. Putting aside the consideration of the extensive alarm that a sudden operation of this kind would produce upon all the persons interested in property, it seems to us that it would be impossible to find a sufficient number of competent persons to perform the task. The number of persons so conversant with the business as to be able to complete a parochial or district valuation without the benefit of a long experience with the locality, and without the aid of the continual objections and remonstrances of the persons taxed, is extremely small. The smallness of their number would necessarily raise the price of their services, and add very considerably to the cost of the process. But supposing the task completed, and that at the moment of completion it corresponded with the then state and value of all the property in the respective districts, the valuation would still daily become, by the constant decay and deterioration of some kinds of property, and the constant improvement of others, more and more unfit for its purposes. In some cases it would scarcely be completed before it would be superseded or rendered worthless. It would be impossible, or, if possible, it would be extremely unjust, to make the valuation binding permanently or for any fixed term: on the other hand, the first correction allowed would detract greatly from its authority as a standing guide for the assessment of the taxes. The repetition of the process, the making another valuation, as a general operation, would be liable

to all the same series of evils and defects; while a new partial valuation would have the ill effect of disturbing the relative liabilities of the several lesser districts, to the prejudice, of course, of some of them, and the benefit of others. It seems to us that it is inevitable that, as a general simultaneous operation to be performed and completed in one effort, whether the operation extends throughout the county, or through a part of a county, or through a single parish, it must be alarming, annoying, costly, and, after all, at best, a very evanescent benefit. REMEDIES.

It seems to be an essential objection to the plan of making the valuation as a separate process, that the valuer comes to the district more or less wanting in experience of the place and the properties to be valued; that during the process of valuation, and before it is acted on as a basis for taxation, its defects cannot be known, or at least will not be severely tested; that when he has completed his task, the valuation is placed in the hands of those who have to use it as the basis of assessment, but who, not having made the valuation, must be unacquainted with the valuer's reason, cannot, if they should be willing, either make effectual application of his data or effectual defence, when his estimates are impugned; and who, moreover, where they themselves for any reason entertain objections to his conclusions, have his valuation at their mercy when his functions are at an end.

What appears to us to be wanting is not, as we believe, attainable by an occasional or periodical valuation, however well performed. It is desirable that there should be a permanent security for the constant adaptation of the valuation to the changing circumstances of property, so that the necessity for sudden amendment and violent change may be avoided by preventing the growth of such inequalities as provoke dissatisfaction and litigation. We think, therefore, that the valuation is a process which should be always in progress; as indeed, from the time of the institution of Poor's Rate till the passing of the Parochial Assessments Act, it was supposed to be, and by law ought to have been.

Thus far it appears to us that the old principle of the Poor's Rate should be adhered to,—that the process of valuation should be involved in and be identical with the making of the rate. But it appears incompatible with the object of obtaining a fair valuation as between the rate-payers of a parish, or as between parish and parish, that this process of valuation should be continued as the function of one or more of the rate-payers, or of any officer, like an assistant overseer, interested in conciliating his own parish, and perhaps interested in serving one particular class of persons within it, to the prejudice of another. It seems to us to be beyond dispute that the officer should be disinterested as between parish and parish, and as between one class and another of parishioners; and for this object, that he should be appointed by some non-parochial authority, and for a combination of parishes. It cannot

REMEDIES.

be fairly objected that the parishioners would by this be deprived of any fair or constitutional protection. It is, indeed, often assumed, in the discussion of questions relating to local taxes, that the rate-payers either have a power of direct interposition in the imposition and expenditure of rates, or that they are represented by officers of their own appointment. As a fact, this assumption is without foundation; for not to refer alone to such instances as those of the County Rates, Hundred Rates, Police Rates, and Sewers Rates, which are perhaps in some measure anomalous, as being decreed, imposed, and expended by appointees directly or immediately of the Crown, there is only one rate imposed by an officer popularly elected,—that is, the Constables' Rate; and this is obsolete, except for the purpose of collecting the taxes imposed and expended by the justices; and there is only one other rate in the imposition of which the rate-payers can directly interfere, namely, the Church Rate, and in the disposition of which they are also represented usually by one Churchwarden of their own appointment. The assumption that the rate-payers have, according to the existing law, any authority, either direct or by representation, in the imposition or repartition of the local taxes, is therefore at variance with the facts in far the greater number of the instances. As a question of principle, such an authority would be not less at variance with the more general analogies. For the constitutional connexion of the obligation to contribute taxes with the right of representation, has no relation to the determination of the amount to be contributed by individual tax-payers: but this right of representation has relation solely to the general allowance of the tax and the principle of its imposition; it does not involve a right in any man, or class of men, where a tax is lawfully imposeable, to determine for themselves in what proportion they shall contribute to it, and in what their neighbours. The claim, that the parish shall be represented in the choice of the officer appointed to assess a tax, is not justified by reference to existing facts or constitutional analogies. Nor does the appointment of one officer for combined parishes in any way interfere with the distinctness and separateness of their liabilities, inasmuch as each rate would still be made to meet the exigencies of each several parish, and would be applied distinctly and exclusively to those exigencies.

This officer being a permanent paid officer, the proposal will appear to involve increased permanent expenditure. It is not possible to estimate accurately the amount of this new expense; but it is certain that a large expense is now incurred, both in money spent and money lost, as well as in labour and inconvenience, of which no account is taken, and which appears to us far to outweigh the possible expense of an appropriate permanent officer, properly appointed, and made effectively responsible for his duties. In the first place, where the rate is now made by

officers who are a part of the public, serving gratuitously, their compulsory service is itself a tax on some scores of thousands of persons every year. If they do their duties vigilantly and honestly, a heavy tax on themselves; if negligently, or in such a way as to indirectly repay themselves, a heavier tax on the public, whom they profess to serve. The mere annual change of such officers makes it almost impossible for them safely to make the requisite alterations when their predecessors' valuations were wrong, or successfully to maintain them when right; whichever course they take, they provoke litigation, the cost of which to the parish generally, great as it is known to be, is certainly less than half the amount lost to the public, of whom the appellants and other complainants, as well as the Court, and those who by their contributions maintain the Court, must be remembered as forming part. The defects and costliness of the performance of the function of overseers led to the provision for assistant overseers, and the experience as to the performance of their duties by the latter is decidedly in favour of the pecuniary economy of the appointment of a paid officer.* There is every reason to believe that the services of an officer appointed for the special and exclusive purpose of assessing the rate, would, if a sufficient number of parishes were combined to give him full occupation, be obtained at a much less cost in salary than that at which the services of assistant overseers, acting for separate parishes, can be obtained;—the separation of the function from all others rendering it certain that the duty will be not only more correctly but also more easily performed.

REMEDIES.

This would appear to be true if the Poor's Rate were alone concerned; but if the consolidation of the rates were adopted, there would of course be a much greater saving effected, inasmuch as one officer would then make, with very slight additional trouble to himself, one rate, instead of the many now made, subject to correction in one effort, and collected at one cost, instead of at many. As the correction of the assessment is intimately connected with the original process of making it, and involves in many respects precisely the same considerations, we shall now proceed with that part of the subject, and afterwards combine in one statement the practical suggestions for the assessment and correction of the rate.

So great an amount of injustice as is effected by unfair valuations cannot exist without a great amount of litigation also; but if the legal remedies are imperfect, as we conceive the present remedies to be in a very remarkable degree, litigation will only be resorted to in flagrant or desperate cases. A measure which should provide for a good valuation would be rendered nugatory

* See Report of the Commissioners for Inquiry into the Administration and Practical Operation of the Poor Laws. 1834. 8vo., pp. 105–7.

REMEDIES.

if the valuation could be set aside by an appeal, as at present, to two or more justices at special sessions. Hitherto the experience has been that this power of appeal has been most effectually employed to get rid of valuations, which, on account of their comparative correctness, have been unpalatable to the overseers or to the parishioners. It appears to us, therefore, to be necessary that the appeal from a valuation should be made to a tribunal no less capable of performing the process of valuation than those persons who make the valuations in the first instance.

It must be borne in mind that the appeals against a valuation involve two very different classes of questions: one class is of questions really legal,—as whether a property of a given description is in law a property in respect of which the rate may be imposed;—whether a person in a given relation to that property is the person liable be rated in respect of that property;—whether an outgoing of a given description is a subject of deduction from the gross value, and other similar questions.

But by far the greatest portion of all the actual appeals involve no legal question, and no question proper for a legal tribunal; no question of law proper for the judge, and no question of fact such as the English law leaves to a jury. They involve only questions such as are safely to be disposed of by being referred to experts; for nine-tenths of the questions in these appeals are, whether the value of a property is one sum or another sum. This value is no such fact as a witness can swear to as having had sensible cognizance of it; he can only swear to his opinion, that he considers his conclusion as to the value of a given property, deduced from certain facts, to be correct. These facts are not past transactions, recorded only in the memory of the witness; they are the actual existent condition of the property,—its productiveness, its convenience, its relations, enhancing or depreciating its value. Facts such as these are, can usually only be submitted to the judgment of any person by an actual inspection of the object with regard to which any inference is made. But the justices do not inspect the property, the value of which is in dispute, and are not expected to do so. They are not even expected to inquire, and certainly they do not do so, what is the condition of the property, or its productiveness, or its conveniences, or other relations determining its value; they hear nothing of the facts, they merely hear the inference or opinion of one man or more, that the value set down in the rate is correctly calculated; and they hear the opinion of another man, or of other men, on the other side, that such value is not correctly calculated, but that by a correct calculation some other value would be established. The justices, thus ignorant of the facts constituting the grounds of these conflicting opinions, have to decide whether the one or the other or neither of the adverse opinions is correct.

In addition to the evil involved in the difficulty of arriving at a

REMEDIES.

satisfactory judgment, there is the temptation to incur a great amount of cost in producing evidence; for where evidence is not to be judged of by the intrinsic character of the facts adduced, the parties must have a strong motive to attempt to convince the judges by the multitude or station or reputation of their witnesses.

The cost of these appeals arising from this cause is a subject of general and well-founded complaint.

We think therefore that questions merely of value are not proper questions to be brought before a Court of Special Sessions or Quarter Sessions, or any court of law whatsoever; we think it a question entirely for experts, special judges, by profession or office, of such questions. We are of opinion that there would be considerably less anxiety, expense, and disappointment, and results incomparably more just, if, wherever a professional valuation had been made, the jurisdiction of both the Special Sessions and of the Quarter Sessions upon questions merely of value was entirely abrogated; provision being made for the cases where any change of circumstances required a modification of the valuation, by the permanent engagement of a special valuer independently of the pleasure of the parish or its representatives.

Amicable Amendment of Rate; and—

But we think it a far preferable course, and one which would be much less expensive to the public and to appellants, if the valuer was permanently responsible for the rate, and if, subject to the approval of the auditor, and under the influence of such a remedy as we are about to suggest, he were allowed to amend the rate amicably without appeal; and if, where he refused to alter his rate as required, a simple tribunal of persons specially qualified by profession or office, and having the character of arbitrators and umpires, were instituted, to have cognizance of disputes exclusively as to value. We think a good tribunal might be formed by the valuer himself who made the valuation, or, in his absence, his agent, on one side, and by any professed valuer who might impugn his valuation on the other side, with the auditor of the Union or district, or some professional person, conjoined with them as umpire: their award to be made on actual inspection of the property, and by the majority of opinions. The valuer of the parish to pay certain fixed costs, not to exceed 1*l.* 11*s.* 6*d.*, where the decision was against him, either by default or on examination; and the appellant to pay certain fixed costs, not to exceed 1*l.* 11*s.* 6*d.*, in each case where the decision was against him, or was to the same effect as any offer of amendment before tendered by the valuer. This proposal would leave the decision immediately to expert judges; for even the auditor would soon, by his position, become an excellent umpire in these questions: from the range of his duties over a wide district, he would acquire a knowledge capable, in many cases, of advantageously qualifying the views of merely local valuers; he would, moreover, act under the

Arbitration of Experts;

REMEDIES.

strong securities for fairness and impartiality which a paid officer, liable to dismissal through incompetence or unfitness, would be subject to. Of the two other judges, both would be strongly interested in supporting their respective views, and very nearly equally so, inasmuch as the burden of costs would, in the case of the parochial valuer, certainly fall upon him if unsuccessful; and in the case of the appellant's valuer, the like loss would most probably, by means of an arrangement between him and the appellant, also fall on him, if he should fail. Certainly the parochial valuer would not be interested in betraying the valuation, as the overseers now for the most part are. The objection may occur that, although not as respects the subject matter in dispute, yet on account of the liability of each valuer to the loss of the costs, the cause is made personally their own, and they are therefore to that extent judges in their own cause; but we see no objection in this, inasmuch as these two interests are equally balanced, one and one; and the auditor, or other umpire, by his position, would, where the arbitrating valuers could not finally agree, be effectively the sole judge. We think, under such circumstances, the decision must be, as compared with that of Justices at Sessions, an enlightened one, made with actual, immediate, and ample cognizance of the necessary facts upon which to form a conclusion. Fair litigation would not be suppressed by any fear of excessive costs or sense of the inefficiency of the tribunal, while unjust litigation would be greatly diminished. The surveyor of the parish, with a liability to costs, and having no personal interest as a rate-payer in the high or low rating, would be interested in amending amicably and without appeal his valuation in any particular in which it was liable to valid objection; on the other hand, he would not readily sacrifice the interests of the absent or non-litigant parishioners by giving way too easily to invalid objections, because by that he would expose himself to successful appeals from some other quarter. Indeed, he would be, *ex officio*, defender of the rate as he had made it, and the defender therefore, while defending his own interests, of all those rate-payers whose ratings were objected to, as being too low; and in this way, much of the present annoyance to individuals, and much of the present expense of appeals, would be avoided. As to the costs of appeals, we think the sum we have named, viz. 1*l.* 11*s.* 6*d.* in each case, would fully cover the fair expenses and remuneration of the auditor and the successful arbitrator, whether the assessor or valuer appointed by the complainant, in the average of disputes as to value. But these costs would be very considerably less than those incurred in all appeals at present, where it is usual to have at least one witness to value on each side, often professional surveyors, and sometimes a large array of them on both sides, each party trying to overcome the other, and to influence the justices' minds by the weight of the numbers and reputation of their witnesses. We think there-

fore the saving of expense would be twofold, namely, that effected by the diminution of litigation, and that effected by the diminution of the actual costs of litigation where it did take place. REMEDIES.

We anticipate also a still greater diminution of litigation, from the universal practice of rating, or at least attempting to rate, property at its full net value. All questions as to *the proportion* in which different rate-payers are rated, questions most provocative of litigation, and most difficult and costly in their trial, would then cease: the questions remaining in each case would simply be, whether the appellant was in his own case rated above his net annual value, or whether some other rate-payer, indicated by him, was rated upon less than the net annual value.

—award to be confined to questions of value;

For the reason before stated, that questions of mere value are not legal questions which the superior courts will or can deal with, but which the Court of Queen's Bench requires to be ascertained for it as facts proved, we should propose that the cognizance of this court of valuation which we have recommended should be confined to questions of value, and should be conclusive on such questions, as regards the current rate, and not even liable to be removed by certiorari.

—to be final.

—jurisdiction of Quarter Sessions to be reserved in questions of right;

But as to the question of liability or non-liability, or other questions of law or fact, these cannot now be tried at Special Sessions, but are only triable at Quarter Sessions. We see no reason to recommend any change in this respect.

—appeal to Quarter Sessions against the Order for a Rate.

Supposing that the previous recommendation, that the Local Rates, or some of them, should be consolidated, the valuation and the remedy would, of course, be a valuation and a remedy at once and conclusively for all the consolidated rates; but it would then be necessary to give also another remedy against the demand of any officers requiring a rate unduly,—such as is now given against the order made by Lighting or Watching Inspectors upon overseers for a rate. This appeal could not apply to questions of value, which would alone be involved in the assessment of the General Rate, but would be confined to questions of right. It would apparently be most conveniently tried at Quarter Sessions, and should be left subject to a certiorari.

But if the assessment of the rates be not consolidated, it is highly desirable that it should be declared that those rates which have been intended to follow the Poor's Rate should not only be imposed on the same persons and property, but should also be made on the same valuation or estimate. Any valuation, or amendment of a valuation, effected for the Poor's Rate could in that case, however, only operate on the next occasion of imposing the other rates, unless some express arrangement was made for inserting immediately, in such other rates, any alterations or amendments effected for the Poor's Rate.

To recapitulate and connect the foregoing suggestions as to the

REMEDIES. valuation of property, the imposition of the rate, and its amendment, we would propose—

That the Poor's Rate, or the Consolidated General Rate of each parish, should be made by a paid valuer or assessor;—such assessor to be appointed for a district of parishes by the Justices at Quarter Sessions, or by the Chairman and Vice-Chairman of Unions, to hold his office during good behaviour; his salary to be fixed by the Poor Law Commissioners, who would likewise have the power of dismissal for incompetence or misconduct.

This officer would, so far as the assessment of the rate is concerned, be the equivalent for the present assistant overseer, only he would be more skilful in his business, and would not be the nominee of the vestry.

The function of this officer, appointed permanently, would not operate, as new valuations do, by sudden alterations in the assessment of property; but in every rate he would make the alteration as the occasion justified it. The difference in the present and the proposed arrangements is, that the latter would be of constant, silent, and almost unobserved operation.

If all parishes were to be rated on their full net value, there can be no reason why the assessor of the rate should be appointed only for one parish; one assessor would most effectively protect all the parishes by being appointed for several, that is, for a district of parishes. There is, in practice, no comparison to be made between the contentment of rate-payers with the assessments made by officers acting for large districts and with those made by parish officers. Litigation, whilst it is incessant in reference to the latter, is almost unknown in regard to the former.

It is perhaps desirable that, to be above the imputation now truly attaching to overseers and other parish officers, of being personally interested in avoiding the full legal burden of the rates, the assessor should not be a rate-payer in his district. If appointed for a district of parishes, he should, of course, still make each rate separately for each parish.

Moreover, he should certainly not be allowed to be collector, treasurer, or expenditor.

That, with or without complaint from any person liable to be rated, he may amend his current rate retrospectively, or prospectively, or both, by raising or lowering the estimate of value, by inserting new or improved property, by reducing or omitting property deteriorated or destroyed, by inserting incoming tenants, or by omitting outgoing tenants. Such amendment to operate as if it had been part of the original rate.

REMEDIES.

An amicable remedy by a competent and disinterested officer is so desirable, that this seems to require no further remark than that a large proportion of the present appeals takes place in cases where it is clear that the rate must be amended; but because the only means of amendment is by appeal. An amicable amendment of the Highway Rate has been for some years in operation with good effect.

That any person interested in any rate, and complaining of his own or any other person's valuation, and having complained to the assessor and not having obtained redress, and having given —— days' notice of appeal to the surveyor, may appear on any question of value to the auditor, at the next Midsummer audit.

On the supposition that the rate is made for the whole year, to be collected in quarterly or half-yearly payments,—one appeal at a sufficient interval after the making of the rate, to give any person time to ascertain his grievance, and yet sufficiently early to make the remedy apply prospectively to the whole rate, would appear to be, at least, as efficacious as four quarterly appeals; for where all the objections to a rate, and all the answers, are brought forward at one court, they must, with a greatly-diminished cost to the litigants and trouble to the court, afford much more ample means for coming to a correct conclusion.

Assuming that the rate should be made about the beginning of the parochial year, the time of the Midsummer audit would seem to be a very convenient time for the appeal, and the presence of the auditor and of all the officers accounting to him and attending with their books, would afford some considerable facilities for the performance of his duties as umpire on appeals.

That the auditor shall, within —— day's after Midsummer Day, in every year, sit as umpire on all such appeals, at some place within the assessor's district. That the assessor or his agent, and any professional valuer appointed by the appellant, shall, together with such auditor, decide the appeal by the majority of opinions, on their own inspection (if necessary) of the property in question, but without examination of witnesses. That they shall not entertain any but questions of value. That their decision shall be conclusive as to the rate appealed against, and not removable by certiorari. That the jurisdiction of the Court of Quarter Sessions, and of the Special Sessions, in questions of value, be repealed.

That if it be decided that the rate is incorrect, the auditor and arbitrators, or two of them, shall amend it, and sign the amendment

REMEDIES.

That if the rate be confirmed, or if it be decided that any offer made by the assessor to the complainant to amend the rate was sufficient, the complainant shall pay 1*l.* 11*s.* 6*d. costs, viz.,* 1*l.* 1*s. to the said auditor, and* 10*s.* 6*d. to the assessor. If the rate be amended, and if it be decided that the assessor has not offered to amend the rate so as to give sufficient redress to the complainant, the assessor shall pay* 1*l.* 11*s.* 6*d. costs, viz.,* 1*l.* 1*s. to the auditor, and* 10*s.* 6*d. to the complainant. That such costs shall be recoverable as penalties and forfeitures under the Poor Law Amendment Act.*

Audit of Accounts.

It is questionable whether the largest tax is that which requires the greatest extent of artificial protection. The greater importance of any tax naturally excites individuals and the public to vigilance, and its administrators act under the influence of greater public jealousy. It is, therefore, doubtful whether a tax does not require a more complete artificial protection in proportion as it is small in its amount or rare in the occasions for its imposition. Nevertheless, it is probable that the only reason which could be assigned for the failure to provide administrative checks upon the expenditure of the great multitude of the less important local taxes is, that they are individually of small amount, when compared with those taxes for which protection has been provided. At present the only rate, the imposition, collection, custody, or expenditure of which is subject to any process that can be, with any propriety, considered as an audit, is the Poor's Rate, the nature and the defects of which audit having been before described, we shall not again attempt to prove that it is desirable—

That the two annual accounts of overseers under the 43*rd Eliz. and the* 17 *Geo. II. c.* 38*, should be repealed.*

By this the present conflict of the authorities,—of the justices, and of the auditor,—would be removed.

With regard to the other local taxes, it can require no argument to prove, that those who collect them, and those who dispose of the proceeds, should be made accountable, or that no accountability is so effectual as that which is brought into operation certainly and constantly by means of a periodical and comprehensive audit.

If the recommendation that we have made, that all the local rates should be consolidated in their assessment, and if the assessment and collection were left to those who have now the assessment and collection of the Poor's Rate, it would very naturally follow—

That the present audit of Poor's Rate would be extended to sums assessed and collected for all the other rates.

This would not materially increase the duties of the auditors, or of the assessors and collectors of the Consolidated General Rate.

REMEDIES.

Audit of Accounts.

It is proper that attention should be more particularly directed to the fact, that in those few cases where an account has been provided by law, in respect of any rate, it has usually been the practice to make none of the officers concerned with it accountable for it, excepting the mere collectors. It seems scarcely to admit of doubt, that in this respect the liability to account is imposed precisely where it is least needed, namely, on officers whose functions are merely ministerial, and not discretionary, and who can be, and in fact usually are, subjected to a very effectual responsibility by means of the security which can be required from them. While the protection is thus provided where there is least occasion for it, it is not provided against those officers who have the application and expenditure of the rate, and thereby the greatest opportunity and temptation to misapply it. We shall assume that the responsibility of the guardians of the poor, and of all their officers, for the moneys and property which come to their hands, is wisely imposed. Our correspondence frequently exemplifies the caution with which the guardians regard any novel kind of expenditure, and the care they take to assure themselves beforehand that any expense they propose to incur is of such a nature that the auditor may be able to allow it. We do not, therefore, apprehend that any arguments can be used in favour of the present irresponsibility of the guardians themselves in respect of the Workhouse Building Rate, or the Survey and Valuation Rate, while they are subject to account in respect of the Poor's Rate; or that any reasons can be found to show why, if overseers are subject to account for Poor's Rate, they should not be subject to account for Militia Rate; or why petty constables should not be subject to an equally stringent account for Constables' Rate, or Surveyors for Highway Rate, or Churchwardens for Church Rate. Without developing the argument for this, we content ourselves with stating our opinion—

That all officers and persons receiving, holding, or expending any local rate, shall account for it in a manner similar to that in which Poor's Rate is accounted for.

That the auditor should have the same power with regard to such accounts,—to reduce unreasonable or exorbitant charges, to disallow illegal charges, to surcharge sums which ought to be received or accounted for, as the Poor Law auditor has with regard to Poor's Rate.

That after payment of the balance, admitted by any party on his account, and on security being given for costs, the auditor's decision may be removed by certiorari.

But that, until such balance be paid, and such security be given, the balance as found by the auditor should be recoverable by the auditor or the persons to whom the balance is payable.

We apprehend that most doubt will exist with regard to some

REMEDIES.
Audit of Accounts.

of those offices which, from their long immunity from control, or from the station of the persons who ordinarily fill them, or from the fact that they are representative offices filled by popular election, may seem to have superior claims to public confidence and an unchecked discretion. It will probably be doubted, for instance, whether the commissioners of sewers shall be liable to an audit in respect of their expenditure of the Sewers Rate; the county justices in respect of their expenditure of the various rates made for counties; or the high constable for the Hundred Rate; or the borough council for the Borough Rate or Borough Watch Rate. With regard to all these bodies, excepting the latter, they are wholly free from all liability whatever to account to any officer or authority. They themselves inspect their own treasurer's account, as any private person would do his banker's account; and this is all the account that exists of the expenditure of the rates. With regard to the Borough Rate, there is a show of an account by the treasurer to the elective auditors: but it seems to be wholly illusory as a system of responsible accounting, because of the want of any power in the auditors to reduce or disallow or insert items, or, indeed, to do anything more than withhold their signature to the account, a process which seems to effect no more than to dispense the treasurer from paying over the balances which he may admit to be due from him at the end of his year of office. As to the power to remove any order of the council, made for the payment of any money out of the borough fund, into the Court of Queen's Bench by writ of certiorari, this appears to be of very little practical efficacy; and, where it might be practicable, is necessarily a dilatory and expensive proceeding; for the burgesses and public of a borough have no regular means of knowing anything of an order of the council for payment of money until after the September audit in each year, and after the publication of the abstract of the treasurer's account for the year; and, therefore, not until the orders of the council have been executed, and the money paid. Moreover, no means are provided for the recovery, from the council, of money expended by them before the writ was moved for; and the effect of quashing an order which has been already executed is wholly undefined, and would, indeed, appear to be none at all.

The change would undoubtedly be a considerable one which should apply to the superior officers in these important bodies any such constant accountability as is involved in the provision of an official audit, that is to say, of any audit which would extend beyond a mere examination of the correctness of the book-keeping of subordinate ministerial officers. Any such power, for instance, as is given to Poor Law auditors to disallow illegal charges, or to reduce unreasonable charges, or to surcharge sums for which an account is due, would certainly be by many persons looked upon as objectionable, in as far as it would be supposed to limit the discretion of these important administrative bodies.

REMEDIES.
Audit of Accounts.

Still this objection appears to be founded on an error: the law gives to these bodies no discretion to incur illegal charges; it gives them a discretion to incur reasonable charges for legal purposes, but it gives them no discretion to incur unreasonable charges, and it gives them no discretion to abandon those funds which are placed at their command for the benefit of the public. An officer, therefore, who had only authority to disallow an illegal charge, could not interfere with the 'legal discretion' of these functionaries: an officer who could only reduce unreasonable charges, could not interfere with their 'reasonable discretion.' The claim, therefore, to a discretion which such an officer would check, is a claim to a licence to incur illegal charges or unreasonable charges, or to abandon, without account, funds which the public are entitled to have applied in its service.

It does not, therefore, appear to be necessary to the most free and unrestrained use of their 'legal and reasonable discretion,' that these officers should be exempt from an effectual audit.

It may be true with regard to these taxes, as it also is with regard to the taxes administered by inferior functionaries, that a regular and effectual audit would, on some occasions, prevent an application of the funds to purposes, unquestionably beneficial, but which the law has omitted to provide for. This licence, however, to apply the tax to beneficial purposes, the attainment of which by means of a tax the law has not authorized, could only be exercised according to the opinion of the functionary, who might often consider beneficial what the Legislature might think injurious. But allowing that there are beneficial purposes to which these rates ought to be made applicable, and which the law has not yet provided for, still the most effectual way to secure the utmost extent of such benefit is not by allowing a few functionaries, who may here and there be bold enough to step beyond the law, to exercise an illegal discretion, but to get the beneficial object recognised by the Legislature, and the legislative sanction given to its universal attainment. To allow any local functionary, however exalted, to apply a tax on his own discretion to any purpose, however beneficial, is to allow to that functionary the privilege of laying a tax on the public in which the public has no voice directly or by its representatives, and therefore contrary to the fundamental principle applicable to taxation in this country.

We believe we are correct in saying, that the taxes which are expended without an audit are also those against the appropriation of which the greatest amount of public suspicion and dissatisfaction exists.

For the above reasons it may be worthy of consideration, whether those who have the expenditure of these last-named taxes should not be accountable, as well as those who have the ministerial collection and custody of them.

REMEDIES. *Audit of Accounts.*

It may be expected that we should offer some suggestions with respect to the many districts of exceptional and anomalous description enumerated in the first part of this Report (page 45). We do not, however, find ourselves in possession of the information which would enable us to make with confidence any recommendation on the subject. The chief of these places, the extra-parochial, are generally exempt from the operation of the Poor Laws, and we have therefore but rare occasions for obtaining any information concerning them; and we have no authority to make any special inquiry into their administration in respect of matters not incidental to the administration of the Poor Laws. Such an inquiry would be necessary to enable it to be decided whether such places are in fact benefited or injured by their present exemption from the operation of a part of the general legislation of the country. A privilege of exemption from taxation would of course be a benefit to the privileged persons, if at the same time they had the advantage of the expenditure of the taxes levied on other unprivileged persons. Thus the exemption of these places from Poor's Rate is understood to operate to supply them with the efficient labour during the better periods of the labourer's life, while the burden of maintaining the labourer in sickness or old age is cast on himself, or more frequently on some parochial place in which he is settled. This effect is most probably an advantage to the privileged places; but if so, it is one obtained at the cost of other places which apparently receive no equivalent advantage for it, and is therefore not to be justified on general principles. Others of the exemptions, as the exemption from the charges incurred in connexion with the office of constable, have probably operated as injuriously to the privileged places as to their neighbours. Others again, such as the exemption from Highway Rate, or Lighting and Watching Rate, would only operate as an impediment within the place to the obtaining of funds for a purpose most beneficial to the district itself. But in order properly to appreciate the operation of these exemptions within the privileged districts, it would be necessary to make a minute and special inquiry. The disadvantages external to these districts are not, we believe, much complained of; and since they have been made liable to County Rates, Hundred Rates, and Police Rates, there is apparently no great probability that places of such small extent, and generally occupied by the higher classes of property and persons, can, by their exemption from any other taxes, cause much inconvenience to their neighbours; and the inconvenience becomes impossible in those numerous instances where private and voluntary arrangements are made for raising funds and obtaining the objects of the very taxes from which they are by law exempt. It is, we believe, indisputable, that in respect of roads, paving, draining, lighting, and police, the Colleges, Cathedral precincts, and most of the

extra-parochial places which are comprised in single private estates, are more amply and better provided than parochial places generally are. The public inconvenience universally applicable to these privileged places is that involved in the necessity of making special provision for them in every Act of Parliament relating to local administration. If they be not expressly included, new anomalies and privileges must be created, for the most part not intentionally, but by mere oversight; if they are included, great difficulty is usually experienced in providing machinery for places where the ordinary kinds of local administrative machinery does not exist. It is thus that the very small portion of the territory and property of the country comprised in these districts has become the occasion of a most disproportionate amount of legislation and of adjudication.

REMEDIES.
Audit of Accounts.

Whatever may be the inconveniences attending on the existence of these exemptions, it is unquestionable that a large amount of property has now been subjected to peculiar arrangements adapted to these exemptions. It is even certain that in some cases these places could not be brought within the operation of the general law without sacrificing existing arrangements superior to any found in ordinary districts. Not being aware of any very powerful reasons of public policy to justify the interference with these arrangements, we are unable to make any recommendation on the subject.

But with regard to new local taxes, it appears to us that it must be desirable to prevent the indefinite extension of these exemptions. It would, however, be difficult to frame a general provision for the purpose of including them in the operation of future legislation, without introducing the machinery created by the existing general law. Until this is done, it appears to us that the extension of new legislation to these places must be, as heretofore, left to the vigilance of Parliament.

Recapitulation.

To recapitulate shortly the above recommendations, it seems to us to be desirable,—

1. That one General Rate should be imposed, instead of—

The Poor's Rate,
The Survey and Valuation Rate,
The Workhouse Building Rate,
The Gaol Fees Rate,
The Constables' Rate,
The three kinds of Highway Rates,
The Lighting and Watching Rates,
The Militia Rate,
The Church Rate,
The Rate for New Churches,
The Burial-ground Rate,
And the Sewers Rate;

REMEDIES.
Recapitulation.

and to provide also for—

The General Sewers Tax, qu?
The three species of County Rates,
The Burial of Dead Rate,
The Hundred Rate,
The County and District Constables' Rate,
The Borough Rate,
And the Borough Watch Rate;

and for any other rates which are now by law or by usage laid on the like persons in respect of the like property as the Poor's Rate, or any other of the above rates, as—

Liberty, and franchise, and other rates of places exempt from County Rates.
Parish Clerks' Rate, &c., &c.

2. That this General Rate shall be a tax on the occupiers of land, and of all improvements of land and of tithes, in proportion to the net annual value of the respective hereditaments.

That Union Workhouses shall not be taxed to the relief of the poor.

3. That the owners of all rateable properties let for no greater term than a year, and of a certain annual value, shall be rated in respect of such properties, instead of the occupiers thereof.

4. That the General Rate shall be assessed separately in the parishes and places in which the Poor's Rate is now separately assessed, and in extra-parochial places in which any of the taxes are now separately assessed. But no place to be made liable by the Act to any rate or tax which it was not before liable to.

5. That the General Rate of each parish or place shall be made by a paid valuer or assessor,

Such assessor to be appointed for a district of parishes or places by the justices of the peace at Quarter Sessions, or by the chairmen and vice-chairmen of Unions,—to hold his office during good behaviour. The Poor Law Commissioners to fix the amount of his salary, and to have authority to dismiss him for incompetence or misconduct.

6. That the officers who are now by law authorized to make any of the rates above described, shall, before the 1st of May in each year, make an estimate of the amount that they will require for the year following the 1st of July then next, specifying, as nearly as possible, the sums required in each quarter of the year, and that they shall deliver such estimate to the assessor of the place.

7. That such assessor shall add together all the amounts so

REMEDIES.
Recapitulation.

estimated, and shall make one general poundage rate for each parish or place, for the whole amount required for such parish or place, specifying the amounts to be levied in each quarter (or half) of the year. That on or before the 1st of July he shall deliver a duplicate of the rate-book to the overseers or paid collectors appointed for each 'parish or place' ('collectors'); and shall deliver to each such 'collector' a book of receipts for the first quarter (or half) of the year; and shall, on the 1st of October, the 1st of January, and the 1st of April, respectively, and not before, deliver to the collector a like book of receipts for the quarter then next ensuing.

8. Publication of the General Rate on the next Sunday, and Right of Inspection to all persons liable, as now for Poor's Rate.

9. That if the entire right to make any one of such rates be in question, or if the amount of the estimate for any of such rates be in question, any person who may be aggrieved may appeal to the next Quarter Sessions. The officer making the estimate (5) to be the respondent in such appeal. If the Court decide against the estimate, the rate shall still be collected, but the proceeds shall be applied to the purposes of any rate not appealed against on the same grounds.

10. As regards the value upon which any person is assessed by the Assessor:—

That the Assessor may, with or without complaint from any person liable to be rated, amend his current rate retrospectively, or prospectively, or both, by raising or lowering the estimate of value, by inserting new or improved property, by reducing or omitting property deteriorated or destroyed, by inserting incoming tenants, by omitting outgoing tenants. Such amendment to operate as if it had been part of the original rate.

That any person interested in any rate, and complaining of his own or any other person's valuation, and having complained to the Assessor and not having obtained redress, and having given days' notice of appeal to the Surveyor, may appeal on any question of value to the Auditor, at the next Midsummer audit.

That the Auditor shall, within days after Midsummer-day, in every year, sit as umpire on all such appeals, at some place within the aforesaid district. That the Assessor, or his Agent, and any professional valuer appointed by the appellant, shall, together with such Auditor, decide the appeal by the majority of opinions, on their own inspection (if necessary) of the property in question, but without examination of witnesses. That they shall

REMEDIES. *Recapitulation.*

not entertain any but questions of value. That their decision shall be conclusive as to the rate appealed against, and not removable by certiorari. That the jurisdiction of the Court of Quarter Sessions, and of the Special Sessions, in questions of value, be repealed.

That if it be decided that the rate is incorrect, the Auditor and Arbitrators, or two of them, shall amend it, and sign the amendment.

That if the rate be confirmed, or if it be decided that any offer made by the Assessor to the complainant to amend the rate was sufficient, the complainant shall pay 1*l.* 11*s.* 6*d.* costs, viz. 1*l.* 1*s.* to the said Auditor, and 10*s.* 6*d.* to the Assessor. If the rate be amended, and if it be decided that the Assessor has not offered to amend the rate so as to give sufficient redress to the complainant, the Assessor shall pay 1*l.* 11*s.* 6*d.* costs, viz. 1*l.* 1*s.* to the Auditor, and 10*s.* 6*d.* to the complainant. That such costs shall be recoverable as penalties and forfeitures under the Poor Law Amendment Act.

11. As regards the general liability of any person or property, the present provisions relating to appeals to Quarter Sessions against the Poor's Rate, to be re-enacted in relation to the General Rate.

12. That the overseers or collector ('collectors') shall collect the General Rate in four equal quarterly portions [in special cases, half-yearly portions]. That they shall make a demand on the occupier for the time being in a printed or written form, which shall include the terms of the heading of the General Rate; and shall give the written or printed receipts for payment, which have been delivered to him by the Assessor, and none other.

13. Re-enactment of provisions as to Poor's Rate, for levy of the General Rate, where there is no appeal, where there is an appeal, and after amendment. No distress to be replevied.

14. Remedy for illegal distresses, and for the protection of officers against actions, as now for Poor's Rate.

15. Appointment of Treasurer of the General Rate. His security not to be less than the whole amount of the General Rate for a quarter of a year.

16. The collector to pay the sums collected by him to the treasurer once at least in every week. The treasurer to compare once at least in every week the collector's book of receipts with the sums paid in, and to make a note of the particulars of any disagreement between the amount of the receipts given and of the

payments made to the treasurer. Penalty on collector not paying in, weekly, the whole sum in his hands.

REMEDIES.
Recapitulation.

17. The treasurer shall at all times furnish to the persons entitled to disburse the rates an account of the money in his hands applicable to their use, and shall pay to them or their order such sums as they may from time to time require.

18. All persons having the collection, custody, or expenditure of the General Rate, or of any of the rates or moneys paid out of the same, or of any money or property applicable to the same purposes, or connected with them, to account twice at least in the year to the auditor, and also whenever required by him. The auditor to have power to reduce unreasonable charges, to disallow unfounded charges, and to make surcharges of money or property for which an account is due; and, if he see fit, to direct to whom the balance found by him shall be transferred. The payment of balances to be enforced by the auditor or the person to whom he may direct it to be paid. Re-enactment of provisions for recovery of balances of Poor's Rates.

19. Inspection and publication of accounts audited, as now provided for the several rates, to be preserved.

20. On payment of the balances admitted, and on giving security for costs, any person aggrieved by the auditor's decision may remove the same by certiorari.

21. Appointment of paid assessor, paid collector, treasurer, and auditor, by the justices of the peace at quarter sessions, or by the chairmen and vice-chairmen of Unions. To hold office during good behaviour. The Poor Law Commissioners to fix the amount of salary, and to have authority to dismiss in case of incompetence or misconduct.

Remedy for salaries.

22. Repeal of Statutory provisions relating to the assessment, collection, and audit of the present local taxes.

We have now submitted for your consideration a plan for the removal of the principal evils connected with the present system of local taxation. Although we believe that the plan which we have proposed would simplify the present system, render the execution of the law more expeditious and certain, and ultimately produce a saving of trouble, expense, and vexation to the ratepayers, we are nevertheless aware that it would involve numerous changes in the existing law. In case therefore it should seem inexpedient to make all these changes simultaneously, we wish to point out that the several parts of the plan are not inseparably connected, and that much of the complexity and irregularity of

REMEDIES.
Recapitulation.

the present practices might be removed without the adoption of those recommendations which involve the widest departure from the existing law. Thus the plan which we have suggested for consolidating the several rates in one General Rate, and the assessment and collection of them by the same officers, might be introduced without the adoption of the suggestions for the appointment of assessors, and the change in the jurisdiction as to appeals. In like manner, the recommendations as to the rating of timber and mines rest upon their own merits, and have no necessary connexion with each other or with the rest of the plan. Indeed it results from the facts which we have stated, that on account of the wide variance between the law and the practice, the mere repeal of those enactments which are openly disregarded or violated, and the substitution for them of provisions conformable with the existing modes of assessing the local rates, would alone constitute a very important improvement.

We have the honour to be,

Sir,

Your very faithful and obedient Servants,

(Signed) GEORGE NICHOLLS.
GEORGE CORNEWALL LEWIS.
EDMUND WALKER HEAD.

APPENDIX.

[The Appendix to the folio copy of the Report contains Summaries of the Statute Law relating to each of the local taxes. Their extent would not allow of their being reprinted in an octavo volume,—only a list of the statutes digested, and the Summary of the Poor's Rate, are reprinted here.]

GENERAL TABLE OF THE STATUTES DIGESTED SO FAR AS THEY RELATE TO LOCAL TAXATION IN APPENDIX A.

ABBREVIATIONS USED IN THIS TABLE.

B. d.	for Burial of Dead Rate.	G. s.	for General Sewers Tax.
B. g.	,, Burial Ground Rate.	H.	,, Highway Rate.
Bo.	,, Borough Rate.	Hun.	,, Hundred Rate.
B. w.	,, Borough Watch Rate.	L. & W.	,, Lighting & Watching Rate.
Ch.	,, Church Rate.	Mil.	,, Militia Rate.
Const.	,, Constables' Rate.	P.	,, Poor's Rate.
Co.	,, County Rate.	Pol.	,, Police Rate.
Co. l.	,, ,, for Lunatic Asylums.	S.	,, Sewers Rate.
Co. s.	,, ,, for Shire-halls, &c.	S. & V.	,, Survey & Valuation Rate.
D. & E.	,, Drainage & Enclosure Rates.	W. b.	,, Workhouse Building Rate.
G.	,, Gaol Fees Rate.		

A.D.		Reference to Rates and Paragraphs.
1285	13 *Edw.* 1	Ch. 182
1530—1	22 *Hen.* 8	Co. 28
1531—2	23 *Hen.* 8 . . *c.* 5, *s.* 1 . .	S., G. s. 123
	,, 2 . .	
	,, 3 . .	S. 28, 38, 49, 51, 52, 53, 54, 81, 82, 95, 104, 109, 116, 132, 215, 224, 249, 265, 266, 269, 272, 297, 310
	,,	G. s. 266, 297
	,, 7 . .	S. 28, 38, 49, 51, 52, 53, 54, 81, 95, 104, 109, 116, 123, 132, 215, 224, 249, 265, 266, 269, 272, 297, 310
	,,	G. s. 123, 266, 297
	,, 8 . .	S. 223
	,, 9 . .	S. 82, 223
	,, 11 . .	S. 302
	,, 12 . .	
	,, 13 . .	S. 28, 104, 249, 265
1549—50	3 & 4 *Edw.* 6 *c.* 8, *s.* 2 . .	S. 82, 215
1558—9	1 *Eliz.* . . *c.* 2	Ch. 268
1562—3	5 *Eliz.* . . *c.* 5	
1571	13 *Eliz.* . . *c.* 9. *s.* 1 . .	S. 223, 224
1572	14 *Eliz.*	Co. 28
1575—6	18 *Eliz.* . . *c.* 3, *s.* 1 . .	P. 268
1601	43 *Eliz.* . . *c.* 2, *s.* 1 . .	P., W. b.; G., Mil., Hun., B. w. 16; P. 28, 37; P. Const., H., L. & W., Co. 38, 39, 40, 41, 42, 43, 55; H., Co. 74, 75, 76, 77, 87
	,,	P. 73, 95, 114, 116, 119, 134, 265, 266, 267, 269, 273, 277, 278, 283, 292, 295, 297
	,, 2 . .	P. 119, 265, 266, 267, 295
	,, 3 . .	P. 225, 278, 292, H. 225
	,, 4 . .	P., H. 215, 216
	,, 5 . .	P. 28, 210, 268, H. 210
	,, 6 . .	P., L. & W. 154, 158; P. 286, 287, 288
	,, 7 . .	P. 267

A.D.		Reference to Rates and Paragraphs.
1601	43 *Eliz.* . . *c.* 2, *s.* 8 . .	P. 19, 134, 154, 265, 297, L. & W. 154
	,, 9 . .	P. 134, 265, 297
	,, 10 . . }	P. 267
	,, 11 . . }	
1603—4	1 *Jac.* 1	Co. 28
1606—7	4 *Jac.* 1 . . *c.* 5 . . .	Ch. 268
1609—10	7 *Jac.* 1	Co. 28
	,, *c.* 4, *s.* 8 . .	P. 267
	,, *c.* 5 . . .	Ch. 302
1623—4	21 *Jac.* 1	Co. 28
	,, *c.* 7 . . .	Ch. 268
	,, *c.* 12 . . .	Ch. 302
1625	1 *Car.* 1 . . *c.* 1 . . .	Ch. 268
1627	3 *Car.* 1	Co. 28
1662	13 & 14 *Car.* 2 *c.* 4, *s.* 7 . .	Ch. 268
	,, *c.* 12, *s.* 15 . .	Const. 28, 30, 71, 93, 119, 134, 215, 265, 266, 293
	,, 17 . .	P. 11, 74, 134, 265, 297
	,, 21 . .	P. 119
	,, 22 . .	P. 119, 267
1666	19 *Car.* 2	Co. 28
1677	29 *Car.* 2 . . *c.* 7 . . .	Ch. 268
1691	3 *Wm.* & *Mary*, *c.* 11, *s.* 12 . .	P., H., Ch. 311
1695—6	7 & 8 *Wm.* 3 . *c.* 34, *s.* 4 . . }	Ch. 206, 212, 222
	,, 5 . . }	
1696—7	8 & 9 *Wm.* 3 . *c.* 30 . . .	P. 168, 288, L. & W. 168
1698—9	11 & 12 *Wm.* 3 . . . . }	Co. 28
1702	1 *Anne* . . . . . }	
1703	2 & 3 *Anne* . *c.* 6, *s.* 1 . . }	P. 28
	,, 2 . . }	
1706	6 *Anne* . . . *c.* 31 . . .	Ch. 268
1708	7 *Anne* . . . *c.* 10, *s.* 1 . . }	S. 223
	,, 2 . . }	
	,, 3 . .	S. 215
1711	10 *Anne* . . . . . }	Co. 28
1712	12 *Anne* . . . . . }	
1714	1 *Geo.* 1, stat. 2, *c.* 6, *s.* 2 . .	Ch. 222
1718	5 *Geo.* 1 . . *c.* 8, *s.* 1 . .	P. 266, 267
	,, 2 . .	P. 277
1719	6 *Geo.* 1	Co. 28
1722	9 *Geo.* 1 . . *c.* 7, *s.* 2 . .	P. 267, 271
	,, 3 . .	P., Const., H., L. and W., Mill., Ch. 308
	,, 4 . .	P. 28, 268
1730	3 *Geo.* 2 . . *c.* 29, *s.* 9 . .	P. 28
1732	5 *Geo.* 2 . . *c.* 19, *s.* 1 . .	P., H., L. & W., Bo. 162; P. 179; 243, 288, 290; D. & E. 243
	,, *s.* 2 . . }	P., Const., H., L. & W., Mil., Ch. 305
	,, 3 . . }	
1736	9 *Geo.* 2 . . *c.* 23 . . .	Ch. 268
1739	12 *Geo.* 2 . . *c.* 29, *s.* 1 . .	Co. 28, 110, 126, 256
	,, 2 . .	P., Const. 28; Co. 66, 196, 197, 199, 256
	,, 3 . .	Const. 28; Co. 67, 68, 196, 197, 199, 256
	,, 4 . .	Co. 69, 196, 197, 199, 256
	,, 5 . .	Co., 89, 256
	,, 6 . .	Co. 249, 252, 259, 261, 262, 263, 268, 271
	,, 7 . .	Co. 266, 269, 272, 274, 279, 295
	,, 8 . .	Co. 256, 266, 272, 279, 284, 285, 291
	,, 9 . .	Co. 251, 263, 268, 271
	,, 10 . .	Co. 116
	,, 11 . .	Co. 259, 260

A.D.				Reference to Rates and Paragraphs.
1739	12 *Geo.* 2 . .	*c.* 29, *s.* 12 . .		Co. 28, 154, 158, 167.
	,,	17 . .		Co. 266, 272, 279, 291, 295; Const. 266, 291
	,,	18 . .		Co. 149, 167, 197*
	,,	21 . .		Co. 28, 305
	,,	24 . .		Co. 300*, 301*, 302
1740	13 *Geo.* 2 . .	*c.* 18, *s.* 5 . .		P., Const., H., L. & W., Mil. Ch., Co. 305
	,,	7 . .		P. 28, Co. 256
1743	16 *Geo.* 2 . .	*c.* 18, *s.* 1 . .	}	P., Const., H., L. & W., Mil., Ch. 306
	,,	3 . .	}	
1744	17 *Geo.* 2 . .	*c.* 3, *s.* 1 . .		P., H. 138
	,,	2 . .	}	P. 139, 140, 141, 142
	,,	3 . .	}	
	,,	*c.* 37, *s.* 1 . .		P. 120, 266; Const., H., L. & W., Ch., Co. 120
	,,	*c.* 38, *s.* 1 . .		P. 265, 266, 267, 269, 271, 272, 273, 277, 279, 283, 284, 285, 292, 295, 297
	,,	*c.* 38, *s.* 2 . .		P. 280, 292
	,,	3 . .		P. 265, 266, 277, 279, 283, 292, 295
	,,	4 . .		P., L. & W. 154, 158, 168; P. 267, 286, 288
	,,	5 . .		P., L. & W. 155; P. 286
	,,	6 . .		P., L. & W. 163, 167; P. 265
	,,	7 . .		P., H. 218, 219; P. 242
	,,	8 . .		P., H. 247, 248
	,,	9 . .	}	P., H. 248
	,,	10 . .	}	
	,,	11 . .		P. 116, 217, 265, 294, 295
	,,	12 . .		P. 117, 154; L. & W. 154
	,,	13 . .		P. 131, 139, 140, 141, 161, 165, 265, 295; L. & W. 161, 165
	,,	14 . .		P. 265, 267, 295
	,,	15 . .		P. 11, 265
1745	18 *Geo.* 2 . .	*c.* 20, *s.* 3 . .		P. 267
1752	25 *Geo.* 2 . .	*c.* 29, *s.* 1 . .		Co. 28
	,,	*c.* 36, *s.* 5 . .	}	P. 28
	,,	8 . .	}	
1753	26 *Geo.* 2 . .	*c.* 19, *s.* 8 . .	}	Co. 28
1754	27 *Geo.* 2 . .	*c.* 3, *s.* 1 . .	}	
	,,	*c.* 20, *s.* 1 . .		P. 267; Ch. 222; P., Const. H., L. & W., Mil., Ch., Bo., B. w. 313
	,,	2 . .		P., Const., H., L. & W., Mil., Ch., Bo., B. w. 313
1761	2 *Geo.* 3 . .	*c.* 22, *s.* 13 . .	}	Ch. 28
	,,	14 . .	}	
	,,	15 . .	}	
	,,	16 . .	}	
1766	7 *Geo.* 3 . .	*c.* 37 . . .		P. 97
	,,	*c.* 39, *ss.* 16 to 21		P. 28
	,,	*c.* 73 . . .		P. 97
1778	18 *Geo.* 3 . .	*c.* 19, *s.* 2 . .		P. 267
	,,	4 . .		P., Const. 28; P. 271
	,,	5 . .	}	P. 271
	,,	6 . .	}	
1782	22 *Geo.* 3 . .	*c.* 83 . . .		P., W. b., S. & V. 13; P., Const., H., L & W., Mil., Ch., B. w. 203; P. 266
	,,	*s.* 7 . .		P. 138
	,,	8 . .	}	P. 266
	,,	10 . .	}	
	,,	12 . .	}	
	,,	17 to 20		P. 28
	,,	24 . .		P. 266

A.D.		Reference to Rates and Paragraphs.
1788	28 *Geo.* 3 . . *c.* 49, *s.* 1 . .	P., Const., H., L. & W., Mil. Ch. 307
	,, 2 . .	
	,, 3 . .	
	,, 4 . .	Ditto ditto 308
1792	32 *Geo.* 3 . . *c.* 57, *s.* 6 . .	P. 28, 267
	,, 11 . .	P., Co., 28; P. 267
	,, 12 . .	P. 28, 267
1793	33 *Geo.* 3 . . *c.* 55, *s.* 1 . .	P. 267
	,, 3 . .	P., Const., H., L. & W., Mil., Ch., Bo., B. w. 316
1795	35 *Geo.* 3 . . *c.* 101, *s.* 2 . .	P. 28, 267
1795	36 *Geo.* 3 . . *c.* 23 . . .	P. 271
1800	39 & 40 *Geo.* 3 . *c.* 47 . . .	P. 97
	,, *c.* 99, *s.* 28 . .	P. 28
1801	41 *Geo.* 3 . . *c.* 23, *s.* 1 . .	P., H., L. & W. 163, 167; P., H. 229, 230; P. 271; H. 153
	,, 2 . .	P., H. 226, 227; P. 271
	,, 3 . .	P., H. 231, 246
	,, 4 . .	P., H., L. & W. 156, 158, 159; P. 287, 288
	,, 5 . .	P., H., L. & W. 159; P. 288
	,, 6 . .	P., H. 154, 160, 163; P. 156; L. & W. 154, 156, 158
	,, 7 . .	P. H. 228
	,, 8 . .	P. H., L. & W. 163, 164
	,, 9 . .	P. 271, 294
	,, *c.* 78, *s.* 1 . .	Co. 28
	,, 2 . .	
1802	42 *Geo.* 3 . . *c.* 90, *s.* 42 . .	P. 267; Mil. 28, 30, 74, 91, 92, 132, 134, 153, 204, 210, 265
	,, 58 . .	P. 267; Co. 28
	,, 95 . .	Co. 28
	,, 122 . .	Mil. 28
	,, 124 . .	
	,, *ss.* 158 to 161	P., Mil. 28
	,, *ss.* 163 to 165	Mil. 28
1808	48 *Geo.* 3 . . *c.* 75, *ss.* 1 to 6	Co., B. d. 28
	,, *s.* 14 . .	B. d. 32, 62, 71, 195, 254
1809	49 *Geo.* 3 . . *c.* 124, *ss.* 1 to 3	P. 28, 267
1810	50 *Geo.* 3 . . *c.* 49, *s.* 1 . .	P. 266, 277, 279, 280, 283, 292, 297, 304
	,, 2 . .	P. 271, 280, 287, 289, 290, 304
	,, 4 . .	P. 289, 304
	,, 5 . .	P. 304
	,, 8 . .	P. 297
1812	52 *Geo.* 3 . . *c.* 110, *s.* 1 . .	Co. 28
	,, 2 . .	
	,, *c.* 146, *s.* 1 . .	P. 28
	,, 2 . .	Ch. 28
	,, 5 . .	
	,, *c.* 160, *ss.* 1 to 7	P. 28
1813	53 *Geo.* 3 . . *c.* 113 . . .	Co. 28
	,, *c.* 127, *s.* 6 . .	Ch. 206, 222
	,, 7 . .	Ch. 182, 210, 212, 213, 214
1814	54 *Geo.* 3 . . *c.* 170, *s.* 9 . .	P., Const., H., L & W., Ch. 311
	,, 11 . .	P., Const., H., C & W., Mil., Ch., Bo., B. w. 203, 205, 270
	,, 12 . .	P., H., Ch. 218, 219
1815	55 *Geo.* 3 . . *c.* 43, *s.* 8 . .	P. 28
	,, *c.* 50, *s.* 1 . .	G. 28
	,, 2 . .	G. 26, 28
	,, 4 . .	G. 28
	,, 5 . .	
	,, 6 . .	G. 26, 28, 249
	,, 7 . .	G. 28

A.D.				Reference to Rates and Paragraphs.
1815	55 *Geo.* 3	*c.* 50, *s.* 10		G. 26, 28
	,,		11	G. 26, 30, 71, 92, 130, 132, 134, 199, 249, 265
	,,		12	P. 28; G. 200, 265
	,,	*c.* 51		Co. 127; Pol. 153; B. d. 92, 256
	,,		*s.* 1	Co. 28, 30, 89, 95, 98, 107, 109, 110, 116, 117,* 129, 138, 256
	,,		2	Co. 95, 98
	,,		3 to 7	Co. 98
	,,		8	Co. 30, 31, 95, 98, 109, 129, 256
	,,		9	Co. 98
	,,		10	Co. 98
	,,		11	Co. 98, 161, 285
	,,		12	P. 28; Co. 66, 70, 116, 196, 197, 199, 249, 256, 263, 268
	,,		13	Const. 28; Co. 67, 69, 129, 196, 197, 199
	,,	*c.* 51, *s.* 14		Co. 154, 158, 167
	,,		16	Co. 256
	,,		17	Co. 28, 260
	,,		18	Co. 285
	,,		19	Co. 256
	,,		22	Co. 268, 311, 312, 318
	,,		23	Co. 300*, 301*, 302*
	,,		24	Co. 126
	,,	*c.* 137, *s.* 1		P. 268
	,,	*c.* 143, *s.* 3		Co. 28
	,,		5	Co. 28
1816	56 *Geo.* 3	*c.* 49, *s.* 1		Co. 129, 256
	,,		2	Co. 127
	,,		3	Co. 127
	,,		4	Co. 127
	,,		6	Co. 127
	,,	*c.* 116		Co. 28
	,,		*s.* 1	G. 26, 28
	,,		2	G. 26, 28
	,,		3	G. 26, 28
1817	57 *Geo.* 3	*c.* 93		P. G., Const., H., L. & W., Mil., Ch., S., G. s., Co., Bo., B. w. 237
	,,		*s.* 1	Ditto ditto ditto 237, 238
	,,		2	Ditto ditto ditto 238
	,,		3	Ditto ditto ditto 238
	,,		4	Ditto ditto ditto 238
	,,		5	Ditto ditto ditto 238
	,,		6	Ditto ditto ditto 317
	,,	(Schedule to)		Ditto ditto ditto 237
	,,	*c.* 94, *s.* 2		P. 28, Co. 156, 197*
	,,		4	Co. 319
	,,		5	Co. 256
1818	58 *Geo.* 3	*c.* 45		Ch., B. g. 265
	,,		*s.* 55	Ch. 28
	,,		56	Ch. 28
	,,		57	Ch. 265
	,,		59	Ch. 28
	,,		61	Ch. 61
	,,		70	Ch. 123
	,,		71	Ch. 123
	,,		73	Ch. 268
	,,	*c.* 69, *s.* 1		P. 83
	,,		3	P. 83
	,,		6	P., Const., H., L. & W., Ch. 131, 268, 293; P. 266; Const. 269: Mil. 131
	,,		7	P. 83
	,,	*c.* 70, *s.* 7		P. 28
	,,		8	P. 28

A.D.				Reference to Rates and Paragraphs.
1819	59 *Geo.* 3	*c.* 12		P.297; Const., L. & W., Mil., Ch. 203; L. & W. 70
	,,	*s.* 1		P. 265, 297
	,,	2		P., H., 203
	,,	3		P. 266
	,,	7		P. 28, 265, 267, 297
	,,	8		P. 28
	,,	9		P. 267
	,,	12 to 14		P. 28
	,,	13	}	P. 267, 268
	,,	17	}	
	,,	19		P. 83, 95, 97, 232; H. 232; Co. 83
	,,	20		P., H. 233
	,,	22		P., L. & W. 154
	,,	23		P., H., Co. 83
	,,	24	}	P. 267
	,,	25	}	
	,,	26	}	
	,,	29	}	
	,,	35		P. 267, 268
	,,	*c.* 85		P. 83
	,,	*c.* 134		Ch., B. g. 265
	,,	*s.* 14		Ch. 28
	,,	23		Ch. 265
	,,	24	}	Ch. 114
	,,	25	}	
1821	1 & 2 *Geo.* 4	*c.* 85, *s.* 1	}	Co. 129
	,,	2	}	
	,,	3		P. 28; Co. 197, 242
	,,	4		P. 28; Co. 316
	,,	5		Co. 197, 316
1822	3 *Geo.* 4	*c.* 23, *s.* 2		P., H. 210; P., Const., H., L. & W., Mil., Ch., D. & E. 309
	,,	*c.* 72, *s.* 5	}	Ch. 28
	,,	6	}	
	,,	20	}	
	,,	21		Ch. 123
	,,	26		B. g. 28, 265
1823	4 *Geo.* 4	*c.* 64, *s.* 4, *et seq.*	}	P., Const., H., L. & W., S., Co. s. 25
	,,	7	}	
	,,	10	}	
	,,	26	}	Co. 28
	,,	28	}	
	,,	32	}	
	,,	33	}	
	,,	39	}	
	,,	45	}	
	,,	46	}	
	,,	47	}	
	,,	54	}	
	,,	55	}	
	,,	58	}	
	,,	60	}	
	,,	68	}	
1824	5 *Geo.* 4	*c.* 83, *s.* 8	}	Co. 28
	,,	9	}	
	,,	12	}	
	,,	15		P. 28
	,,	*c.* 85		P. 28
	,,	*ss.* 22 to 25		Co. 28
1825	6 *Geo.* 4	*c.* 50, *s.* 9		P. 28
1826	7 *Geo.* 4	*c.* 57, *s.* 80		Co. 28
	,,	*c.* 63		Co. 28
	,,	*s.* 4	}	Co. s. 28
	,,	9	}	

A.D.			Reference to Rates and Paragraphs.
1826	7 *Geo.* 4 . .	*c.* 63, *s.* 11 . .	Co. s. 32, 62, 92, 106, 108, 116, 117*, 118, 253, 266, 270, 272, 273, 274, 280, 291, 296, 297
	,,	20 . .	Co. 268, Co. s. 312, 318
	,, . .	*c.* 64 . . .	Co. 28
	,,	*ss.* 25 to 28.	P. 28
1827	7 & 8 *Geo.* 4 .	*c.* 17 . . .	P., G., Const., H., L. & W., Mil., Ch., S., G. s., Co.; Bo., B. w. 237, 238
	,,	*c.* 31, *s.* 2 . .	Hun. 9, 28, 74, 126
	,,	5 . .	Hun. 311
	,,	6 . .	Hun. 26, 195, 253
	,,	7 . .	Hun. 26, 28, 32, 33, 62, 116, 95 249, 253
	,,	9 . .	Hun. 26, 195, 253
	,,	11 . .	
	,,	12 . .	Hun. 9, 18, 19, 126
	,,	14 . .	Hun. 62, 116, 126, 195, 249
	,,	15 . .	P. 28, Hun. 16, 63, 64, 126, 130, 195
1828	9 *Geo.* 4 . .	*c.* 40 . . .	Co. 28
	,,	*s.* 2 . .	Co. l. 126
	,,	2 to 12	Co. l. 28
	,,	4 to 8	Co. l. 126
	,,	12 . .	Co. l. 32, 61, 71, 128, 195, 256, 264
	,,	13 . .	Co. l. 28
	,,	14 . .	Co. l. 28, 84, 116, 249, 259, 266, 268, 270, 271, 272, 273, 274, 280, 291, 296, 297
	,,	15 . .	Co. l. 84, 233
	,,	15 to 29	Co. l. 28
	,,	16 . .	Co. l. 114, 116
	,,	22 . .	Co. l. 249
	,,	26 . .	Co. l. 28, 112
	,,	29 . .	P., Const., Mil., Ch., S., Co., B. w. 97
	,,	30 . .	Co. l. 249, 270, 272
	,,	31 . .	Co. l. 270
	,,	33 . .	Co. l. 249
	,,	36 to 38	P. 28
	,,	44 . .	P. 267
	,,	51 . .	Co. l. 270, 272
	,,	52 . .	Co. l. 249, 268, 270, 272
	,,	59 . .	P. 267
	,,	61 . .	Co. l. 2, 3, 4, 12, 15, 19, 22
	,,	*c.* 61, *s.* 22 . .	Co. 28
1830	11 *Geo.* 4 . .	*c.* 5, *s.* 2 . .	P. 58
1830	11 *Geo.* 4 & 1 *Wm.* 4	*c.* 1 . . .	Co. 28
1830	1 *Wm.* 4 . .	*c.* 64, *s.* 18 . .	Co. 28
1831	1 & 2 *Wm.* 4 .	*c.* 38, *s.* 26 . .	Ch. 268
	,,	*c.* 41, *s.* 13 . .	Co. 28
	,,	*c.* 42, *ss.* 1 to 5 .	P. 28
	,,	*c.* 59, *s.* 1 . .	P. 28
	,,	2 . .	
	,,	*c.* 60, *s.* 32 . .	P. 266
	,,	33 . .	P. 297
	,,	39 . .	P. 266
1832	2 *Wm.* 4 . .	*c.* 42, *s.* 1 . .	P. 28
	,,	*c.* 45, *s.* 56 . .	P. 28, 267
	2 & 3 *Wm.* 4 .	*c.* 72, *s.* 1 . .	Hun. 28
	,,	*c.* 107, *s.* 11 . .	Co. 28
	,,	*s.* 13 . .	
1833	3 & 4 *Wm.* 4 .	*c.* 22. . . .	G. s. 1, 297*
	,,	5 . .	S. 265
	,,	7 . .	S. 223
	,,	8 . .	S. 116, 132, 215, 265, 297

A.D.			Reference to Rates and Paragraphs.
1833	3 & 4 *Wm.* 4 . *c.* 22, *s.*	10 . .	S. 28
	,,	14 . .	S. 116, 123, 249, 265, 271, 274; G. s. 197
	,,	16 . .	S. 28, 104, 105, 135, 271, 310; G. s. 28, 135
	,,	18 . .	S. 117
	,,	19 . .	S. 28
	,,	24 . .	
	,,	40 . .	
	,,	41 to 53	
	,,	48 . .	S., G. s. 266, 278, 291, 293, 297
	,,	50 . .	S., G. s. 265
	,,	51 . .	
	,,	53 . .	S. 224, 268, 310
	,,	54 . .	S. 310
	,,	55 . .	S., G. s. 310.
	,,	56 . .	S. 268
	,,	57 . .	S., G. s. 301
	,,	58 . .	S. 301; G. s. 303
	,,	59 . .	S., G. s. 311
	,,	60 . .	S. 223
	,, *c.* 30.	. . .	P. 37
	,, *s.*	1 . .	P. 38.; P., H., L. & W., Ch. 39
	,,	2 . .	
	,, *c.* 35, *s.*	1 . .	D. & E. 28, 201, 202, 209, 211, 220, 336
	,,	2 . .	D. & E. 221
	,,	3 . .	D. & E. 242
	,,	4 . .	D. & E. 243, 244
	,,	5 . .	D. & E. 311
	,, *c.* 64, *s.*	6 . .	Co. 28
	,, *c.* 90	. . .	Bo. 27; B. w. 27, 77, 197
	,, *s.*	2 . .	L. & W. 29, 27, 119
	,,	4 to 16	L. & W. 119
	,,	5 . .	
	,,	9 . .	L. & W. 30, 70, 92, 113
	,,	10 to 13	L. & W. 113
	,,	15 . .	P. 267; L. & W. 291
	,,	18 . .	L. & W. 278, 297
	,,	19 . .	L. & W. 279, 285, 291
	,,	24 . .	L. & W. 28, 150, 265; B. w. 28
	,,	25 . .	L. & W. 265
	,,	26 . .	L. & W. 266, 270, 272, 278, 291, 293, 297
	,,	27 . .	L. & W. 293
	,,	31 . .	L. & W. 266, 270, 272, 274, 276
	,,	32 . .	L. & W. 116, 150, 265
	,,	33 . .	L. & W. 70, 92, 111, 113, 114, 199, 265; B. w. 95
	,,	34 . .	L. & W. 114, 132
	,,	35 . .	L. & W. 217
	,,	36 . .	L. & W. 249, 250, 251, 266, 271, 274
	,,	37 . .	L. & W. 16
	,,	38 . .	L. & W. 197, 198
	,,	40 . .	L. & W. 268
	,,	41 . .	
	,,	43 . .	
	,,	45 . .	B. w. 28
	,,	46 . .	L. & W., B. w. 28
	,,	55 . .	L. & W. 268
	,,	56 . .	
	,,	63 . .	L. & W. 268, 276
	,,	65 . .	L. & W. 311
	,,	66 . .	L. & W. 150, 151, 152
	,,	67 . .	L. & W. 153

A.D.		Reference to Rates and Paragraphs.
1833	3 & 4 *Wm.* 4 . *c.* 22, *s.* 71 . .	L. & W. 26, 28, 119; B. w. 28
	,, 73 . .	L. & W. 119
	,, 77 . .	L. & W. 6, 11, 17, 114
	,, 78 . .	L. & W. 92
1834	4 & 5 *Wm.* 4 . *c.* 48, *s.* 1 . .	Co. 117*, 256, 271
	,, 2 . .	Co. 116, 256, 271
	,, 3 . .	Co. 116, 117*, 256, 27
	,, *c.* 76 . . .	P. 165, 266, 268
	,, *s.* 2 . .	P. 298
	,, 3 . .	P. 300
	,, 13 . .	P. 279
	,, 14 . .	P. 28
	,, 15 to 17	P. 300
	,, *c.* 90, *s.* 18 . .	P. 267, 300
	,, 20 . .	P. 300
	,, 21 to 25	P. 28
	,, 23 . .	P. 268; W. b. 265
	,, 24 . .	W. b. 28, 112
	,, 25 . .	W. b. 28, 112, 265
	,, 26 . . }	P. 28
	,, 27 . . }	
	,, 28 . .	P. 268
	,, 34 . .	P. 125
	,, 35 . .	P. 102, 154, 265; L. & W. 154
	,, 36 . .	P. 103, 265
	,, 39 . .	W. b. 265
	,, 42 . .	P. 300
	,, 46 . .	P. 297
	,, 47 . .	P. 266, 267, 269, 272, 273, 277, 279, 280, 292, 297
	,, 48 . .	P. 297
	,, 52 . .	P. 28
	,, 54 . .	
	,, 56 . . }	P. 267
	,, 58 . . }	
	,, 59 . . }	
	,, 63 . .	P. 28
	,, 71 . .	
	,, 72 . .	
	,, 77 . . }	P. 267
	,, 78 . . }	
	,, 82 . .	
	,, 83 . .	
	,, 84 . .	P. 28, 267
	,, 89 . .	P. 271, 280
	,, 92 to 94	P. 267
	,, 95 . .	P. 267, 292
	,, 97 . .	P. 267
	,, 98 . . }	P. 267, 292, 300
	,, 99 . . }	
	,, 100 . .	
	,, 101 . .	
	,, 105 . . }	P. 300
	,, 107 . .	
	,, 108 . .	
	,, 109 . .	P., W. b., S. & V. 2, 3, 11, 13; P. 16, 19; Mil., Hun. 11
1835	5 & 6 *Wm.* 4 . *c.* 50, *s.* 1 . .	H. 147
	,, 5 . .	H. 5, 11, 19, 28
	,, 6 . .	H. 28, 265
	,, 7 . . }	H. 265
	,, 9 . . }	
	,, 11 . .	H. 77, 265
	,, 13 . .	H. 124, 265
	,, 14 . .	H. 124, 265, 231

A.D.		Reference to Rates and Paragraphs.
835	5 & 6 *Wm.* 4 . *c.* 50, *s.* 15 . .	H. 124
	,, 16 . .	H. 124
	,, 17 . .	H. 265
	,, 18 . .	H. 265, 266, 278, 281, 296, 297
	,, 27 . .	H. 30, 47, 133, 134
	,, 28 . .	H. 265
	,, 29 . .	H. 114, 132
	,, 30 . .	H. 83
	,, 31 . .	H. 147
	,, 32 . .	H. 203
	,, 33 . .	H. 61, 89
	,, 34 . .	H. 195, 210, 216, 246, 247, 248
	,, 36 . .	H. 265
	,, 37 . .	H. 265
	,, 38 . .	H. 266, 269, 277, 278, 291, 293, 297
	,, 39 . .	H. 266, 269, 272
	,, 40 . .	H. 269, 272, 274, 275, 276
	,, 42 . .	H. 266, 281, 291
	,, 43 . .	H. 291
	,, 44 . .	H. 266, 277, 278, 280, 297
	,, 45 . .	H. 278, 279, 297
	,, 82 . .	H. 28, 114
	,, 100 . .	H. 311
	,, 103 . .	H. 268, 312, 313, 314, 315, 318
	,, 104 . .	H. 302
	,, 105 . .	H. 154, 159, 168, 169
	,, 106 . .	H. 153, 154, 156, 159, 160, 163, 164 167, 210, 226, 227, 228, 229, 230, 231, 246
	,, 107 . .	H. 166, 304
	,, 108 . .	H. 170
	,, 110 . .	H. 319
	,, 111 . .	H. 28, 193, 194
	,, *c.* 63, *s.* 22 . .	Co. 28
	,, *c.* 69 . . .	P. 267
	,, *s.* 3 . .	P. 2
	,, 4 . .	P. 2
	,, 5 . .	P. 267
	,, 7 . .	P. 268
	,, *c.* 74 . . .	Ch. 206
	,, *s.* 2 . .	Ch. 207*
	,, *c.* 76. . . .	Pol. 7
	,, *s.* 7 . .	Bo. 127
	,, 8 . .	Bo. 127
	,, 11 . .	P. 76; Co. 77
	,, 37 . .	Bo., B. w. 297
	,, 58 . .	Bo., B. w. 265
	,, 84 . .	L. & W., Bo., B. w. 27
	,, 88 . .	L. & W. 113, 265; Bo. 249
	,, 92 . .	Bo. 28, 32, 62, 66, 68, 71, 88, 92, 129, 153, 154; B. w. 28, 95, 113, 116, 126, 195, 199, 249, 252, 254, 268, 269
	,, 93 . .	Bo., W. w. 266, 269, 272, 274, 276, 280, 285, 297
	,, 112 to 114	Co. 126
	,, 117 . .	Co. 126
	,, 142 . .	P. 76; B. w. 10
1836	6 & 7 *Wm.* 4. *c.* 71, *s.* 12 . .	H. 121
	,, 69 . .	P. Const., H., L. & W., Co. 40, 41, 56; L. & W. 121; S. 49; B. w. 50
	,, 70 . .	P. Const., H., L. & W., Mil., S., G. s.. B. w. 85, 86, 144, 234; Ch., Bo., 144, 234; Co. 85, 86; Pol. 144

A.D.		Reference to Rates and Paragraphs.
1835	6 & 7 *Wm.* 4 . *c.* 86, *s.* 9 . .	P. 28
	,, 18 . .	
	,, 29 . .	
	,, 30 . .	
	,, *c.* 96. . . .	P. 95, 271; Co. 107
	,, *s.* 1 . .	P. 95, 96, 97, 134; Const. 93; B. w. 95
	,, 2 . .	P. 132, 133
	,, 3 . .	P. 28, 99, 100, 265; S. & V. 28
	,, 4 . .	P. 101
	,, 5 . .	P. 139, 140, 141
	,, 6 . .	P. 171, 172, 173, 174, 178
	,, 7 . .	P. 171, 173, 175, 176, 177, 180
	,, *c.* 103, *s.* 1 . .	Bo. 127
	,, *c.* 104, *s.* 5 . .	B. w. 197, 208
	,, 6 . .	Bo., B. w. 311
	,, 10 . .	Bo., B. w. 299
1837	1 & 2 *Vic.* . *c.* 14. . . .	P. 23
	,, *c.* 22, *s.* 19 . .	P. 28
	,, 20 . .	
	,, 25 . .	
	,, *c.* 45, *s.* 1 . .	P., H. 138
	,, 2 . .	P. 83, P., H. 138
	,, 7 . .	P. 138
	,, *c.* 68. . . .	Co. 28
	,, *c.* 69, *s.* 2 . .	P., Const., H., L. & W., Ch. 121; Co. 129
	,, 3 . .	
	,, 8 . .	P., Const., H., L. & W. Mil., S., G. s., B. w. 86, 235; Ch. 235; Co. 86; Bo. 235
	,, *c.* 78, *s.* 15 . .	Bo., B. w. 297
	,, 29 . .	Bo., 67, 196, 265
	,, 43 . .	Bo., B. w. 299
	,, 44 . .	Bo., w. 271
	,, *c.* 81. . . .	P. 28
	,, *s.* 1 . .	Bo. 30, 66, 70, 88, 129, 196, 197, 199, 215, 265; B. w. 66, 129, 195, 196, 197, 215, 265
	,, 3 . .	Bo., B. w. 67, 68, 129, 196, 199, 265; Co. 256
1838	1 & 2 *Vic.* . *c.* 56, *s.* 118 . .	P., W. b. 24
1839	2 & 3 *Vic.* . *c.* 28, *s.* 1 . .	B. w. 28, 38, 48, 49, 50, 61, 77, 95, 97, 113, 115, 116, 126, 254
	,, 2 . .	B. w. 254
	,, *c.* 51. . . .	P. 267
	,, *c.* 62, *s.* 3 . .	P., Const., H., L. & W., Ch., S., G. s., Pol., Bo., B. w. 145
	,, 34 . .	P., Const., H., L. & W., Ch., 121, 122; Co. 129
	,, 35 . .	
	,, 36 . .	P. Const., H., L. & W., Ch. 121; Co. 129
	,, *c.* 82. . . .	Pol. 126
	,, *c.* 84, *s.* 1 . .	P. 271
	,, 2 . .	P. 265
	,, *c.* 93. . . .	L. & W. 27
	,, *s.* 1 . .	Pol. 26
	,, 3 . .	
	,, 4 . .	
	,, 9 . .	Pol. 268, 271
	,, 12 to 16	Pol. 268
	,, 18 . .	Pol. 28, 280
	,, 20 . .	Co. 28; Pol. 28, 268
	,, 21 . .	Pol. 114, 268
	,, 22 . .	Pol. 153, 268

A.D.			Reference to Rules and Paragraphs.
1839	3 & 4 *Vic.*	*c.* 93, *s.* 23	Pol. 249, 259, 260, 266, 269, 272, 280, 284, 296
	,,	24	Pol. 268
	,,	27	Pol. 7, 9
	,,	28	Pol. 7, 22
1840	3 & 4 *Vic.*	*c.* 15, *s.* 28	P. Const., H., L. & W., Ch. 122; Co. 129
	,,	*c.* 26, *s.* 1	P. Const., H., L. & W., Mil., Ch. 311
	,,	2	
	,,	*c.* 28, *s.* 1	B. w. 28, 95, 113, 254
	,,	2	B. w. 113
	,,	*c.* 29, *s.* 1	P. 28
	,,	*c.* 88, *s.* 1	Pol. 268
	,,	3	Pol. 28, 32, 71, 92, 107, 126, 256, 260, 268
	,,	4	Pol. 92
	,,	5	Pol. 196, 268
	,,	6	Pol. 196, 268, 272
	,,	7	Pol. 196
	,,	8	Pol. 153, 196, 257
	,,	9	Pol. 196, 268
	,,	12	Pol. 28
	,,	13	
	,,	17	Pol. 268, 271
	,,	20	L. and W. 27
	,,	21	Pol. 268
	,,	25	Pol. 126, 196, 271, 272.
	,,	27	Pol. 126, 272
	,,	28	
	,,	29	Pol. 126
	,,	34	Pol. 7, 126
	,,	35	Pol. 269, 272
	,,	*c.* 89, *ss.* 1, 2	P. 59, 74, 311; Const. 59, 71, 311; H. 30, 59, 74, 311; L. & W., Mil., Ch. 311; L. & W. 59; Co. 30, 74
	,,	*c.* 93, *s.* 1	Ch. 207
	,,	*c.* 99, *s.* 17	P. 28
1841	4 & 5 *Vic.*	*c.* 7, *s.* 9	P. 28
	,,	*c.* 32, *s.* 1	
	,,	*c.* 36.	Ch. 206
	,,	*c.* 45, *s.* 1	S. 271; G. s. 28, 34, 65, 72, 90, 110, 116, 123, 188*, 190, 197, 240, 256
	,,	2	G. s. 34, 90, 116, 123, 136, 188*, 190, 201, 204, 249, 257, 265
	,,	3	S. 149; G. s. 28, 146, 188*, 189, 190, 191, 215, 240
	,,	4	S., G. s. 271
	,,	7	S., G. s. 28
	,,	8	S. 149; G. s. 28, 188*, 190, 297
	,,	9	S. 311; G. s. 28, 311
	,,	10 to 13	G. s. 249
	,,	14	G. s. 1, 135, 249, 265, 266, 278, 291, 293, 297, 297*, 301, 303, 310
	,,	16	G. s. 310
	,,	*c.* 48, *ss.* 1, 2.	P. 76
	,,	*c.* 49, *s.* 1	Co. 28
	,,	2	Co. 28, 266, 269, 272, 274, 278, 296
	5 *Vic.*	*c.* 7, *s.* 1	P. 59, 74, 311; Const., H. 30, 59, 71, 74, 311; L. & W., Mil., Ch. 311; L. & W. 59; Co. 30, 74.

INDEX.

POOR'S RATE.

DEFINITIONS AND REFERENCES.

(2) 'Number.'
(3) 'Gender.'
(7) 'County.'
(8) 'County or Place.
(11) 'Parish.'
(12) 'Parish or Place.'
(13) 'Union.'
(16) 'Overseers.'
a. extended.
(19) 'Justices' or 'Justices of the Peace.'
a. Corporate Justices.
b. Aldermen of London.
(20) 'One Justice.'
(21) 'Two Justices.'
(22) 'Quarter Sessions.'
(24) 'Poor Law Commissioners.'
(25) 'Common Gaol.'

RATES (28 to 295).

PURPOSES OF THE RATE.

(28) Purposes defined.

PROPERTY IN RESPECT OF WHICH THE RATE IS IMPOSED.

General conditions of the Rateability of Property.

(35) Locally within the 'parish.'
(36) Visible within the 'parish.'
(37) Productive of private profit within the 'parish.'

1. *Property Liable Expressly.*

(38) Lands.
(39) Houses:
a. exemption of churches, &c.
(40) Tithes impropriate,
a. or rent-charge in lieu thereof.
(41) Propriations of tithes,
a. or rent-charge in lieu thereof.
(42) Coal-mines.
(43) and saleable underwoods.

2. *Property Liable by Implication.*

(55) Property constituting the ability of the parish.
(56) Tithes of the parson or vicar,
a. or rent charge in lieu thereof.
(57) Pensions of the parson or vicar.
(58) Oblations and other offerings.
(59) Personal property of inhabitants.

PERSONS LIABLE TO THE RATE.

2. *Individual Persons.*

3. *General Exemptions of Persons.*

2. *Individual Persons.*

Primary Liabilities.

74) Inhabitants.
a. exempt 'till July 31, 1842.
75) Parsons, vicars,
(76) and other;
(77) and occupiers of property liable expressly (38 to 43).
a. municipal corporations, liable.
b. occupiers of houses, &c., in boroughs, &c.

Substituted liabilities:—

(83) Owners liable in lieu of occupiers
a. execution by overseers,
b. 'owner' defined.
c. salvo for parliamentary boroughs.
59 *Geo.* 3, *c.* 12.
Idem. 5 & 6 *Wm.* 4, *c.* 76.
(85) Occupiers of land liable instead of the parson or vicar;
a. or the owner of tithe impropriate or propriations;
(86) but the owner of the rent-charge *may* be rated

3. *General Exemptions of Persons.*

(87) General exemption.
(91) The King.

VALUATION OF RATEABLE PROPERTY.

Estimate of Rateable Value.

(95) By ability of rate-payers.
a. rated 'owners' (83) by actual rental.
b. estimate of net annual value by estimated rental.
(96) Prohibition of other estimates.
(97) Salvo for privileges generally.
a. salvo for lunatic asylums.

Surveys and Valuations in 'Parishes.'

(99) Appointment of valuers and surveyors, and their payment.
(100) Repayment of expenses.
(101) Powers of entry on lands, &c., by surveyors and valuers.

Surveys and Valuations in Unions for Rating.

(102) Powers of guardians of union.
(103) Expenses of surveys and valuations.

AMOUNT OF RATE.

(114) At discretion of overseers.

PERIODS AT AND FOR WHICH RATES ARE TO BE MADE.

(116) Weekly or otherwise.
(117) Salvo for outgoing and incoming tenants.
a. settlement of disputes.

DISTRICTS IN WHICH RATES ARE TO BE MADE.

(119) 'Parishes.'
a. hundred in aid of 'parish.'
b. county in aid of 'parish.'
(120) In what parishes improved lands are to be rated.
a. appeal to quarter sessions;
b. power of justices;
c. decision conclusive.
(121) Boundaries of parishes to be settled with concurrence of adjoining parishes, by the tithe commissioners.
a. boundaries of parishes as so settled to be conclusive.
b. to be published.
c. cost of inquiry.
d. determination removable by certiorari.
if party enter into recognizances.
e. power of Queen's Bench.
f. decision of Queen's Bench conclusive.
determination of commissioners not removable after six months.
(122) Boundaries of parishes, if adjoining parishes do not object, to be settled by tithe commissioners.
a. mode of proceeding by assistant commissioner.

Unions for Rating.

(125) Unions for rating.

RATE BOOKS.

(131) Books to be provided and entered:
a. to be preserved in public places,
b. as vestry may direct:
c. to be transferred to succeeding overseers.

FORM OF RATE.

(132) Particulars.
a. when rates are compounded for.
(133) Declaration of correctness.

ALLOWANCE OF THE RATE.

(134) By 'two justices.'
a. if the rate be made on the estimate of net annual value.
b. what justices shall allow the rate.

PUBLICATION OF THE RATE.

By Public Notice.

(138) On the Sunday next after allowance
a on the church and chapel doors;
b. rate otherwise void.

By Inspection.

(139) Right of free inspection *to all persons assessed or liable to be assessed.*
(140) Right to *all inhabitants* (and parishioners?) to inspect, paying 1*s.*
penal action against officers refusing inspection.
(141) Right to *all persons rated* to take copies, *gratis.*
penalty for not permitting.
(142) Right to *all inhabitants* (and parishioners?) to be supplied with copies by officers, paying 6*d.* for 24 names.
penal action against officers not giving copies.
(143) Mandamus to give inspection.
(144) Right of inspection to owners of tithe rent-charge if the charge be rated.
(145) Right to land and tithe owners to special information as to tenements and sums assessed.

REMEDIES AGAINST RATES.

LITIGIOUS REMEDIES (154 to 181).

Appeal against the Rate.

i. *to Quarter Sessions.*

ii. *to Special Sessions.*

iii. *from Special to Quarter Sessions.*

i.—*to Quarter Sessions.*

(154) To quarter sessions.
grounds of appeal.
a. owners of tithe rent-charge.
(155) Salvo for corporate jurisdictions.
(156) Notice of appeal to overseers.
a. to other persons concerned.

Power of Quarter Sessions
—to receive and hear appeal.
(158) After reasonable notice to hear and determine.
a. without reasonable notice to adjourn.
(159) Inquiry limited to subjects stated in notice.
a. unless parties concerned waive the notice altogether;
b. or waive defects in the notice.
(160) Right of all persons concerned to be heard.

(161) Overseers to produce former and present rate-books.
—to amend Rates.
(162) Defects of form to be amended.
(163) Justices not to quash the Rate when they can amend it.
a. power to amend.
b. duty of officer of the Court.
c. power to order repayment by overseers of overcharges.
(164) Recovery of overcharges.
(165) Overseers to make fair copy of rates (amended).
—to quash Rates.
(167) Justices may quash rate when necessary.
a. and order a new rate to be made.
b. overseers to make a new rate.
—to award Costs.
(168) Justices to order costs.

ii. *to Special Sessions.*

(171) Special sessions to be held.
(172) Notice of holding special sessions.
(173) Power of special sessions to hear and determine appeal.
a. of owners of rent-charge as well as other rate-payers
b. after notice.
c. to adjourn.
d. to amend or quash rates, and award costs.
(174) Orders conclusive, unless appealed against.
(175) Orders not removable by certiorari.
(176) Reservation of right to appeal to quarter sessions.
(177) Order of special sessions inoperative during appeal to quarter sessions, or in opposition to order of quarter sessions.

iii. *From Special to Quarter Sessions.*

(178) If appellant enter into recognizances.
a. owners of rent-charge, as well as other rate-payers.
(179) Power of quarter sessions to amend defects of form.
(180) to award costs.
(181) Determination conclusive.

LEVY OF RATE.

ON INDIVIDUAL RATE-PAYERS.

1. *ON PERSONS PRIMARILY LIABLE.*
2. *ON PERSONS SUBSTITUTED.*

1. *ON PERSONS PRIMARILY LIABLE.*

i. before appeal.
ii. pending appeal.
iii. after rate appealed against and amended.
iv. after rate appealed against and quashed.

i. before appeal.

1. DEMAND.

(201) Note.

2. PAYMENT.

(203) Excusal of payment with consent of 'overseers.'

3. COLLECTION.

(205) Rates excused not to be collected.

4. ENFORCEMENT. See *post* (313 to 317).

By Distress.

(210) Summons.
(215) Justices may issue warrant of distress.
(216) Overseers may levy by distress in the parish.
(217) Succeeding overseers to levy arrears.
(218) In default of distress in the parish, overseers may levy within the county.
a. rate may be levied after demand anywhere within the county.
(219) In default of distress in the county, levy may be made out of the county.

By Commitment.

(225) In default of distress in the parish, justices may commit.

ii.—pending appeal.

(226) Rate as made to be recovered.
(227) After notice, sum to be recovered limited.

iii.—after rate appealed against and amended.

(228) Rate to be recovered as amended.

iv.—after rate appealed against and quashed.

(229) Rate as made to be recovered.
(230) Payment to be on account of next effective rate.
(231) But quarter sessions may order payment not to be made.

2. *ON PERSONS SUBSTITUTED.*

On 'owners' substituted for occupiers.
(232) Same as on occupiers.
(233) But goods of occupiers may be distrained.
a. recuperation from rent by occupiers.
On occupiers of land substituted for owners of tithe rent-charge.
(234) Where assessed on occupier.
a. recuperation by occupier from rent, by landowner from rent-charge.
(235) Where assessed on owner, levy on any occupier.

a. recuperation by occupier from rent-charge.

COSTS OF LEVY.

(237) Charges fixed.
(238) No charge but for acts done.

REMEDIES FOR UNLAWFUL DISTRESSES FOR RATES.

2. *Appeal.*

(242) Appeal to quarter sessions.
(243) Defect of form to be amended.

3. *Actions.*

(246) Distress for rate quashed, &c., not unlawful till after notice.
(247) Distress not unlawful for defect of form, &c.
(248) Subsequent irregularity not to make the distrainer a trespasser *ab initio.*
a. action for special damage.
b. costs of plaintiff.
c. plaintiff not to recover if tender of amends be made.

OFFICERS.

(265) Overseers' duties generally:—
to make, publish, collect, and levy rates;
to produce rate-books at appeals;
after appeal to make true copy of rate;
after rate quashed to make a new rate;
penalty for negligence in office, 20*s.* — 5*l.*

a. Assistant overseers.
b. Surveyors and valuers.
c. Collection superintended by select vestry.
Orders of Poor Law Commissioners directing the appointment of collectors, confirmed.
powers of such collectors.
control of Poor Law Commissioners.
d. allowance of rates, by what justices.
e. in unions for rating;—
the guardians to assess property.
expense of valuation.
rates to be made as poor's rates are now made.

ACCOUNTS (266 to 297).

PERSONS LIABLE TO ACCOUNT.

(266) Overseers.
a. general description of persons liable to account.

MATTER OF ACCOUNT.

1. *Receipts.*
2. *Payments.*
3. *Balances.*

(267) Matter of account generally.

1. *Receipts;* of money, custody of books, &c.

Authority to receive. *Note.*

(268) Rates. See RATES *passim.*
a. Property generally.
'Overseers' of 'parishes' to hold lands, &c., as a corporation.
to hold chattels.
b. Guardians of 'parishes' and unions a corporation, to hold, &c.
c. Custody of books, &c.

Account for Receipts.

(269) Overseers.
a. general description of persons.
(270) Receipt not required where poor persons are excused.

2. *Payments.*

Authority to Pay

(271) *Note.*
a. Overseers to pay contributions to guardians.
b. to reimburse constables.
settlement of accounts by one justice.
appeal by overseers to quarter sessions.
salvo for corporations.
c. prohibition of certain payments.

Account for Payments.

(272) Overseers' account for payments.
a. general description of persons.

3. *Balances.*

(273) Overseers.
a. all persons.

THE MAKING OF ACCOUNTS.

Making Periodical, Occasional, or Final Accounts.

(277) Overseers' final annual account, four days after expiration of office.
a. fourteen days after.
in writing in a book, and signed by the overseers

b. overseer removing.
c. quarterly account of all persons in writing.

THE RENDERING OF ACCOUNTS.

1. *Mere Delivery of Accounts.*
2. *For Verification.*
3. *For Audit.*
4. *Render to Successors.*

1. *Mere Delivery of Account.*

(278) Overseers' final accounts four days after the end of their year to two justices.
committal for neglect to render.
a. moneys of fugitives.

2. *For Verification.*

(279) Overseers' final accounts, fourteen days after the end of their year, by oath before two justices at special sessions.
a. officer removing.
b. of all persons, by oath or declaration.

3. *For Audit.*

(280) Overseers' accounts to two justices at special sessions.
penalty for neglect.
a. justices' powers and duties.
b. as to items contrary to Poor Law Act, or commissioners' orders.
c. all persons' accounts, quarterly to guardians or auditors, or, in default of these, to justices at petty sessions.
oath or declaration.

DISPOSAL OF ACCOUNTS RENDERED.

(283) Delivery to two justices.
a. transfer of final accounts verified to succeeding officers.
b. of accounts of an officer removing.
c. of accounts of an officer dying.
(284) Custody of final accounts.
(285) Right of persons assessed or liable to be assessed to inspect and to have copies.

APPEAL AGAINST ACCOUNTS.

1. *Against the Accounts rendered.*
2. *Against Disallowances by Justices.*

1. *Against the Accounts rendered.*

(286) By any person against accounts yielded to justices, 43 *Eliz.*
a. by any persons against accounts verified, 17 *Geo.* 2.
salvo for corporations.
(287) Notice of appeal.
(288) Power of justices to receive appeal.
a. to adjourn if reasonable notice be not given.
b. to amend defects of form.
c. to inquire only as to grounds stated.
salvo where no notice is given.
where a defective notice has been given.
d. to order costs.

2. *Against Disallowances by Justices.*

(289) By overseers against disallowances, &c., 50 *Geo.* 3.
a. in corporations.
(290) Power of justices.
a. to amend defects of form.
b. to order parish to pay costs.

RECOVERY OF BALANCES.

1. *Due from Accountants.* *b. Money and Stock.* *c. Books, &c.*
2. *Due to Accountants.*

1. *Due from Accountants.*

b. Money and Stock.

(292) Overseers within four days.
levy by distress.
by committal.
a. Overseer after expiration of office.
b. overseer removing.
c. within twenty-four (14+10) days.
Levy by distress.
committal on default of distress.
d. committal for neglect to pay.
e. executors of overseers dying.
f. all accountants.
sureties not discharged.

c. Books, Papers, &c.

(293) Non-delivery penalty.
other remedies reserved.

2. *Due to Accountants.*

(294) Reimbursement of overseers.

OFFICERS LIABLE TO ACCOUNT.

(295) Overseers' penalty for neglect, 20*s.*
a. ——————————— 5*l.* for the use of the poor.

OFFICERS FOR AUDITING ACCOUNTS.

(297) Two justices.
a. One justice.
and, if required, two justices at special session.
b. two justices at special session.
c. a select vestry.
d. the guardians, auditors, or justices.
e. appointment of paid auditors.

GENERAL PROVISIONS RELATING BOTH TO RATES AND TO ACCOUNTS. (298 to 317.)

1. INQUISITORY POWERS.—RETURNS, REPORTS, RECORDS, &c.

(298) Poor Law Commissioners to inquire.

2. ADMINISTRATIVE POWERS.—

CONTROL OF RATES, ACCOUNTS, AUDITS, &c.

(300) Poor Law Commissioners to regulate.

3. LITIGIOUS REMEDIES, &c.

PROTECTIONS.

Certiorari.

(304) No certiorari to remove orders of justices or sessions made under the 50 *Geo.* 3, *c.* 49.

(305) No certiorari to remove proceedings of justices after six months, nor without six days' notice, nor recognizance for costs, &c.
- *a.* recognizance to be filed in B. R.
- *b.* justices may show cause.
- *c.* if costs be not paid, attachment for contempt.
- *d.* recognizance not to be discharged till conditions performed.
- *e.* if recognizance be not given, or not performed, justices to proceed.

JURISDICTION.

Justices of the Peace.

1. *Disabilities Removed.*
2. *Jurisdiction Given.*

1. *Disabilities Removed.*

(306) Justice may act although rated; but not on appeal to quarter sessions.

2. *Jurisdiction Given.*

(307) Justice of two adjoining counties, resident in one, may act for either.
- *a.* his warrants to constable.
- *b.* offenders may be taken into adjoining counties.
- *c.* conveyed to gaol through an adjoining county.

(308) Justice of county at large may act as such within certain precincts; but shall not intermeddle in such precincts.

(309) Where *two* Justices, &c., may determine, *one* may summon;
- *a.* and one may execute the determination.
- *b.* form of conviction to be according to the facts.

EVIDENCE.

Witnesses' Disabilities Removed.

(311) Of parishioners, not paupers, actions for recovery of balances.
- *a.* of all inhabitant (?) rate-payers as such;
- *b.* of all rate-payers and officers, as such;
- *c.* of officers and rate-payers as nominal parties.

EXECUTION,

By Distress and Sale.

(313) Where power of distress given, justices may also order a sale within ≮ 4 ≯ 8 days.
- *a.* warrant to be shown, and copy allowed.
- *b.* expenses to be deducted from proceeds of sale.
- *c.* overplus, if demanded, to be returned.

(316) If no sufficient distress in the county, justice of other county may back the warrant.
- *a.* sale in such other county.
- *b.* application of proceeds.
- *c.* if no distress, committal, &c.
- *d.* justice backing warrant not answerable for irregularity in the original.

(317) Costs of levy by distress, copy of charges to be given.

TABLE OF STATUTES.

	No. of Paragraph.
18 *Eliz.* c. 3, s. 1.	268
43 *Eliz.* c. 2, s. 1.	16, 28, 37, 38, 39, 40, 41, 42, 43, 55, 73, 74, 75, 76, 87, 95, 114, 116, 119, 134, 265, 266, 267, 269, 273, 277, 278, 283, 292, 295, 297
,, 2.	119, 265, 266, 267, 295
,, 3.	225, 278, 292
,, 4.	215, 216
,, 5.	28, 210, 268
,, 6.	154, 158, 286, 287, 288
,, 7.	267
,, 8.	19, 134, 154, 265, 297
,, 9.	134, 265, 297
,, 10.	267
,, 11.	267
7 *Jac.* 1, c. 4, s. 8.	267
13 and 14 *Car.* 2, c. 12, s. 17.	11, 74, 134, 265, 297
,, 21.	119
,, 22.	119, 267
3 *Wm. and Mary*, c. 11, s. 12.	311
8 & 9 *Wm.* 3, c. 30	168, 288
2 & 3 *Anne*, c. 6, s. 1.	28
,, 2.	28
5 *Geo.* 1, c. 8, s. 1.	266, 267
,, 2.	277
9 *Geo.* 1, c. 7, s. 2.	267, 271
,, 3.	308
,, 4.	28, 268
3 *Geo.* 2, c. 29, s. 9.	28
5 *Geo.* 2, c. 19, s. 1.	162, 179, 243, 288, 290
,, 2.	305
,, 3.	305
12 *Geo.* 2, c. 29, s. 2.	28
13 *Geo.* 2, c. 18, s. 5.	305
,, 7.	28
16 *Geo.* 2, c. 18, s. 1.	306
,, 3.	306
17 *Geo.* 2, c. 3, s. 1.	138
,, 2.	139, 140, 141,
,, 3.	142
,, c. 37, s. 1.	120, 266
,, c. 38, s. 1.	265, 266, 267, 269, 271, 272, 273, 277, 279, 283, 284, 285, 292, 295, 297

	No. of Paragraph.
17 *Geo.* 2 c. 38, s. 2.	280, 292
,, 3.	265, 266, 277, 279, 283, 292, 295
,, 4.	154, 158, 168, 267, 286, 288
,, 5.	155, 286
,, 6.	163, 167, 265
,, 7.	218, 219, 242
,, 8.	247, 248
,, 9.	248
,, 10.	248
,, 11.	116, 217, 265, 294, 295
,, 12.	117, 154
,, 13.	131, 139, 140, 141, 161, 165, 265, 295
,, 14.	265, 267, 295
,, 15.	11, 265
18 *Geo.* 2, c. 20, s. 3.	267
25 *Geo.* 2, c. 36, s. 5.	28
,, 8.	28
27 *Geo.* 2, c. 20, s. 1.	267, 313
,, 2.	313
7 *Geo.* 3, c. 37.	97
,, c. 39, ss. 16 to 21.	28
,, c. 73.	97
18 *Geo.* 3, c. 19, s. 2.	267
,, 4.	28, 271
,, 5.	271
,, 6.	271
22 *Geo.* 3, c. 83.	13, 203, 266
,, s. 7.	138
,, 8.	266
,, 10.	266
,, 12.	266
,, 17 to 20	28
,, 24.	266
28 *Geo.* 3, c. 49, s. 1.	307
,, 2.	307
,, 3.	307
,, 4.	307
32 *Geo.* 3, c. 57. s. 6.	28, 267
,, 11.	28, 267
,, 12.	28, 267
33 *Geo.* 3, c. 55, s. 1.	267
,, 3.	316
35 *Geo.* 3, c. 101, s. 2.	28, 267
36 *Geo.* 3, c. 23.	271
39 & 40 *Geo.* 3, c. 47.	97
,, c. 99. s. 28.	28
41 *Geo.* 3, c. 23, s. 1.	163, 167, 229, 230, 271
,, 2.	226, 227, 271
,, 3.	231, 246

	No. of Paragraph.
41 *Geo.* 3, *c.* 23, *s.* 4.	156, 158, 159, 173, 287, 288
,, 5.	159, 288
,, 6.	154, 156, 160, 163
,, 7.	228
,, 8.	163, 164
,, 9.	271, 294
42 *Geo.* 3, *c.* 90, *s.* 42. 58.	267
,, 158 to 161.	28
49 *Geo.* 3, *c.* 124	267
,, *ss.* 1 to 3.	28
50 *Geo.* 3, *c.* 49, *s.* 1.	266, 277, 279, 280, 283, 292, 297, 304
,, 2.	271, 280, 287, 289, 290, 304
,, 4.	289, 304
,, 5.	304
,, 8.	297
52 *Geo.* 3, *c.* 146, *s.* 1. ,, *c.* 160, *ss.* 1 to 7.	28
54 *Geo.* 3, *c.* 170, *s.* 9.	311
,, 11.	203, 305, 27
,, 12.	218, 219
55 *Geo.* 3, *c.* 43, *s.* 8. ,, *c.* 50, *s.* 12. ,, *c.* 51, *s.* 12. ,, *c.* 137, *s.* 1.	28
	268
57 *Geo.* 3, *c.* 93.	237
,, 1.	237, 238
,, 2. ,, 3. ,, 4. ,, 5.	238
,, *s.* 6.	317
,, (*Schedule to*)	237
57 *Geo.* 3, *c.* 94, *s.* 2.	28
58 *Geo.* 3, *c.* 69, *s.* 1. ,, 3.	83
,, 6.	131, 266, 268, 293
,, 7.	83
,, 70, *s.* 7. ,, 8.	28
59 *Geo.* 3, *c.* 12.	297
,, *s.* 1.	265, 297
,, 2.	203
,, 3.	266
,, 7.	28, 265, 267, 297
,, 8.	28
,, 9.	267
,, 12 to 14.	28
,, 13. ,, 17.	267, 268
,, 19.	83, 95, 97, 232
,, 20.	233
,, 22.	154
,, 23.	83

	No. of Paragraph.
59 *Geo.* 3, *c.* 12, *s.* 24. ,, 25. ,, 26. ,, 29.	267
,, 35.	267, 268
,, *c.* 85.	83
1 & 2 *Geo.* 4, *c.* 85, *s.* 3. ,, 4.	28
3 *Geo.* 4, *c.* 23, *s.* 2.	210, 309
4 *Geo.* 4, *c.* 64, *s.* 7. ,, *s.* 4. *et seq.* 10	25
5 *Geo.* 4, *c.* 83, *s.* 15. ,, *c.* 85. 6 *Geo.* 4, *c.* 50, *s.* 9.. 7 *Geo.* 4. *c.* 64, *ss.* 25 to 28.	28
7 & 8 *Geo.* 4, *c.* 17.	237, 238
,, *c.* 31, *s.* 15.	28
9 *Geo.* 4, *c.* 40, *s.* 29.	97
,, 36 to 38	28
,, 44. 9 *Geo.* 4, *c.* 44, *s.* 59.	267
11 *Geo.* 4, *c.* 5, *s.* 2.	
1 & 2 *Wm.* 4, *c.* 42, *ss.* 1 to 5 ,, *c.* 59, *s.* 1. ,, 2.	28
,, *c.* 60, *s.* 32.	266
,, 33.	297
,, 39.	266
2 *Wm.* 4, *c.* 42, *s.* 1.	28
2 *Wm.* 4, *c.* 45, *s.* 56	28, 267
3 & 4 *Wm.* 4, *c.* 30.	37
,, *s.* 1. ,, 2.	38, 39
,, 90, *s.* 15.	267
4 & 5 *Wm.* 4, *c.* 76.	265, 266, 268
,, *s.* 2.	293
,, 3.	300
,, 13.	279
,, 14.	28
,, 15. ,, 16. ,, 17.	300
,, 18.	267, 300
,, 20.	300
,, 21 to 25.	28
,, 23.	268
,, 26, ,, 27.	28
,, 28.	268
,, 34.	125
,, 35.	102, 154, 265
,, 36.	103, 265
,, 42.	300
,, 46.	297
,, 47.	266, 267, 269, 272, 273, 277, 279, 280, 292, 297
,, 48.	297
,, 52.	28

Poor's Rate.

	No. of Paragraph.
4 & 5 *Wm.* 4. *c.* 76, *s.* 54.	267
,, 56.	
,, 58.	
,, 59.	267
,, 63.	28
,, 71.	267
,, 72.	
,, 77.	
,, 78.	
,, 82.	
,, 83.	
,, 84.	28, 267
,, 89.	271, 280
,, 92.	267
,, 93.	
,, 94.	
,, 95.	267, 292
,, 97.	267
,, 98.	267, 292, 300
,, 99.	267, 292, 300
,, 100.	300
,, 101.	
,, 105.	
,, 107.	
,, 108.	
,, 109.	2, 3, 11, 13, 16, 19
5 & 6 *Wm.* 4, *c.* 69.	267
,, *s.* 3.	28
,, 4.	
,, 5.	267
,, 7.	268
,, *c.* 76, *s.* 11.	76
,, 142.	
6 & 7 *Wm.* 4, *c.* 71, *s.* 69.	40, 41, 56
,, 70.	85, 86, 144 154, 173, 178, 234
,, *c.* 86, *s.* 9.	28
,, 18.	
,, 29.	
,, 30.	

	No. of Paragraph.
6 & 7 *Wm.* 4, *c.* 96.	95, 271
,, *s.* 1.	95, 96, 97, 134
,, 2.	132, 133
,, 3.	28, 99, 100, 265
,, 4.	101
,, 5.	139, 140, 141
,, 6.	171, 172, 173, 174, 178
,, 7.	171, 173, 175, 176, 177, 180
1 *Vic. c.* 14	28
,, *c.* 22, *s.* 19.	
,, 20.	
,, 25.	
,, *c.* 45, *s.* 1.	138
,, 2.	83, 138
,, 7.	138
,, *c.* 69, *s.* 2.	121
,, 3.	
,, 8.	86, 235
,, *c.* 81.	28
1 & 2 *Vic.*, *c.* 56, *s.* 118.	24
2 & 3 *Vic.*, *c.* 51.	267
,, *c.* 62, *s.* 3.	145
,, 34.	121, 122
,, 35.	
,, 36.	121
,, *c.* 84, *s.* 1.	271
,, 2.	265
3 *Vic.*, *c.* 15, *s.* 28.	122
3 & 4 *Vic.*, *c.* 26, *s.* 1.	311
,, 2.	
,, *c.* 29, *s.* 1.	28
,, *c.* 89, *ss.* 1 & 2.	59, 73, 311
,, *c.* 99, *s.* 17.	28
4 & 5 *Vic.*, *c.* 7, *s.* 9.	
,, *c.* 32, *s.* 1.	
,, *c.* 48, *s.* 1.	76
,, 2.	
5 *Vic.*, *c.* 7, *s.* 1.	59, 73, 311

LOCAL TAXATION,

RATES AND ACCOUNTS.

POOR'S RATE.

DEFINITIONS AND REFERENCES.

The terms here defined, when used in this summary in the extended, or contracted, or arbitrary sense affixed to them by the following declarations and definitions, will be cited thus, 'parish.'

2 Number.

Wherever a word is used importing only the single number,
IT *shall*
be understood to include several persons, parties, matters, or things,
as well as one person, party, matter, or thing respectively,
unless there be something in the subject or context repugnant to such construction.

4 & 5 *Wm.* 4, *c.* 76, *s.* 109.

3 Gender.

Wherever a word is used importing only the masculine gender,
IT *shall*
be understood to include females as well as males,
unless there be something in the subject or context repugnant to such construction.

4 & 5 *Wm.* 4, *c.* 76, *s.* 109.

7 'County'

Will always mean county, riding, and division.

When the words county, riding, and division are used together, the word 'division' is construed to mean not such districts as boroughs, cinque ports, &c., but only such divisions of counties as are analogous to counties, and have separate commissioners of the peace, acting in like manner as in an entire county at large. *Evans qui tam.* v. *Stevens*, 4 *T. R.*, 224, 459. Such are the divisions of the county of Lincoln, known by the names of the parts of Holland, Lindsay, and Kesteven.

'County or place.'

In the words 'county or place' the word 'place' will include borough, liberty, division of a liberty, precinct, county of a city, county of a town, cinque port, town corporate, and every other place for which any justices of the peace may act separately, not being a 'county,' but the name of which, if inserted, would be of co-ordinate importance in the sentence with the word 'county.'

11 'Parish.'

Where, by reason of the largeness of parishes, the inhabitants cannot reap the benefit of the Act of the 43rd Eliz. for the relief of the poor,
TWO OR MORE overseers of the poor
shall
be yearly chosen and appointed within every township or village of such parishes,

13 & 14 *Car.* 2, *c.* 12, *s.* 17.

And THE OVERSEERS of the poor within every such township or place,

13 & 14 *Car.* 2, *c.* 12, *s.* 17;
17 *Geo.* 2, *c.* 38, *s.* 15.

Poor's Rate.

DEFINITIONS AND REFERENCES—*continued.*

although there are no churchwardens of such township or place,
17 *Geo.* 2, *c.* 38, *s.* 15.
shall
from time to time
do, perform, and execute all and every the Acts, powers, and authorities,
for the necessary relief of the poor,
13 & 14, *Car.* 2, *c.* 12, *s.* 17.
and other matters and things relating to the poor,
as churchwardens and overseers may do, perform, and execute by this Act, or any former statute concerning the poor;

The enactment only imposes on the overseers of townships the duties of overseers of parishes created *by the* 17 *Geo.* 2, and *by previous Acts.* But it has always been the practice, and it would no doubt be supported by the courts of law, to consider all Acts which in terms refer only to overseers of parishes as applying equally to overseers of townships and villages, although the latter, as is very frequently the case, are not named.

and *shall*
lose, forfeit, and suffer all such pains, forfeitures, and penalties for neglect, abuse, or non-performance thereof, as churchwardens and overseers of the poor are liable to.
17 *Geo.* 2, *c.* 38, *s.* 15.

a. The word 'parish'
shall
be construed
to include any parish, city, borough, town, township, liberty, precient, ville, village, hamlet, tithing, chapelry, or any other place or division, or district of a place maintaining its own poor,
whether parochial or extra-parochial.
4 & 5 *Wm.* 4, *c.* 76, *s.* 109.

12 'Parish or place.'

In the words 'parish or place,' the word 'place' will include every place not being a place maintaining its own poor, the name of which, if inserted, would be of co-ordinate importance in the sentence with the word 'parish.'

13 'Union.'
The word 'Union'
shall
be construed
toinclude any number of 'parishes'
united for any purpose whatever under the provisions of this Act,
or incorporated under the Act made and passed in the 22nd year of his late Majesty, King George III., intituled *An Act for the better Relief and Employment of the Poor* (c. 83),
or incorporated for the relief and maintenance of the poor under any local Act.
4 & 5 *Wm.* 4, *c.* 76, *s.* 109.

16 'Overseers.'
The churchwardens of every parish,
and four, three, or two substantial householders there, nominated yearly, under the hands and seals of two or more 'justices' in the same county,
shall

DEFINITIONS AND REFERENCES—*continued.*

be called 'overseers of the poor' of the same parish.
43 *Eliz. c.* 2, *s.* 1.

a. THE WORD 'overseer'
shall
be construed
to mean and include
overseer of the poor,
churchwarden, so far as they are authorized by law, to act in the management or relief of the poor, or in the collection or distribution of the poor rate;
assistant overseer,
and any other subordinate officer, whether paid or unpaid, in any parish or union, employed therein in carrying the laws for the relief of the poor into execution.
4 & 5 *Wm.* 4, *c.* 76, *s.* 109.

19 'Justice.'
'Justice of the peace.'
THE WORDS 'justice' or 'justice of the peace' (when the jurisdiction is not specifically mentioned)
shall
be construed to include
justices of the peace
of any county,
division of a county,
riding,
borough,
liberty,
division of a liberty,
precinct,
county of a city,
county of a town,
cinque port,
or town corporate.
4 & 5 *Wm.* 4, *c.* 76, *s.* 109.

a. MAYORS, bailiffs, and other head officers of towns, places corporate, and being justices of the peace,
shall
have the same authority within the limits and precincts of their jurisdictions as is appointed to 'justices' of counties.
And NO OTHER JUSTICES of the peace
shall
enter or meddle there.
43 *Eliz.*, *c.* 2, *s.* 8.

See a similar provision in the 50 *Geo.* 3, *c.* 44, *s.* 4, applying to the verification and audit, by justices, of overseers' accounts, and to the appeal, by overseers, against disallowances and reductions in their accounts. But this statute gives to the overseers, in towns corporate and cities, a right to appeal from their corporate justices to county justices, if there be not four justices in the town or city.

b. EVERY ALDERMAN of the City of London,
within his ward,

Poor's Rate.

DEFINITIONS AND REFERENCES—*continued.*

shall and may
do, and execute in every respect,
so much as is appointed and allowed, by this Act, to be done and executed by one or two justices of the peace of any county.
43 *Eliz. c.* 2, *s.* 8.

20 ' One justice.'
If authority be given to ' one justice,'
ONE OR MORE
may
exercise the authority.
R. v. *Hutton*, 2 *Salk.*, 477. *R.* v. *Weale*, 5 *C. and P.*, 135.

21 ' Two justices.'
If authority be given to ' two justices,'
TWO OR MORE
may
exercise the authority.
One alderman in London within his ward may do everything which two county justices may do under the statute 43 Eliz., c. 2. See above (19 *b.*).
R. v. *Hutton*, 2 *Salk.* 477. *R.* v. *Weale*, 5 *C. and P.*, 135.

22 ' Quarter sessions'
Will include general sessions, or annual sessions, or quarter sessions of the peace, or any adjournment thereof respectively.
Whenever power is given to the justices at quarter or other sessions, the power is given to the major part of the justices assembled at such sessions.

24 ' Poor Law Commissioners.'
The words ' Poor Law Commissioners'
shall
be taken to mean the Poor Law Commissioners for England and Wales, appointed by authority of an Act passed in the fourth and fifth year of his late Majesty King William IV., intituled *An Act for the Amendment and better Administration of Laws relating to the Poor in England and Wales.*
1 & 2 *Vic.*, *c.* 56, *s.* 118.

25 ' Common gaol'
Will include house of correction. See 4 *Geo.* 4, *c.* 64, *s.* 4, *et seq.*, and *s.* 10. But vagrants, rogues, and vagabonds, can only be committed to houses of correction.
4 *Geo.* 4, *c.* 64, *s.* 7.

RATES.

PURPOSES OF THE RATE.

28 THE 'OVERSEERS'
shall
take order to raise,
weekly or otherwise,
by taxation,

a. a convenient stock of flax, hemp, wool, thread, iron, and other ware, and stuff to set the poor on work;

b. and also competent sums of money
for and towards the necessary relief of the lame, impotent, old, blind, and other persons, poor, and not able to work;
and also for putting out of poor children to be apprentices;
43 *Eliz.*, *c.* 2, *s.* 1.

c. and to erect, build, and set up,
in fit and convenient places of habitation, on wastes, or commons within their parish,
convenient houses of dwelling
for the impotent poor.
43 *Eliz.*, *c.* 2, *s.* 5.

The poor's rate was the first local tax for the imposition and collection of which appropriate directions were given by statute, proper officers invested with the duty, and intelligible and accessible remedies provided both for the officers assessing the tax to vindicate their powers, and for the persons assessed to secure them against injury in the assessment, in the levy, and in the appropriation of the tax. It was difficult or impossible to make so complete a provision for every case in which expenditure was contemplated for local public purposes, especially in those cases where the amount of money required was small. Use has therefore been wisely made of the machinery contrived for the imposition and levy of poor's rates, in many matters having no relation to the original purposes of these rates. But though these secondary purposes of the tax are very numerous, the amount applied to the whole of them has never been equal to that applied at the same time to the original purpose; and the rate, numerous as are its other applications, still retains the name of poor's rate significant of what has always been its main purpose.

Purposes incident to the relief of the Poor.

Generally the rate is applicable to the payment of charges incidental to the execution, by public officers of the statutes for the relief of the poor, whether such charges are expressly mentioned in any statute or not. These incidental charges need not be particularly enumerated; the following, however, are a few of them enumerated:—

Maintenance of the poor in workhouses, 4 & 5 *Wm.* 4, *c.* 76, *s.* 26.
Out-door relief to the aged and infirm, *ib. s.* 27.
,, ,, able-bodied, *ib. s.* 52.
,, in cases of emergency, *ib. s.* 54.
Casual relief to the poor, 4 & 5 *Wm.* 4, *c.* 76, *s.* 54.
Medical relief, *ib.*
Building, altering, enlarging, purchasing, hiring, and fitting up of workhouses, 9 *Geo.* 1, *c.* 7, *s.* 4; 22 *Geo.* 3, *c.* 83, *ss.* 17 to 20; 59 *Geo.* 3, *c.* 12, *s.* 8; 4 & 5 *Wm.* 4, *c.* 76, *ss.* 21 to 25; 5 & 6 *Wm.* 4, *c.* 69, *ss.* 3, 4.
Putting out apprentices, 43 *Eliz.*, *c.* 2, *s.* 5, and subsequent Acts.
Register of apprentices, 52 *Geo.* 3, *c.* 146, *s.* 1.
Putting apprentices to the sea service, 2 & 3 *Anne*, *c.* 6, *s.* 1 & 2.

POOR'S RATE.

PURPOSES OF THE RATE.

Purposes incident to the relief of the Poor—continued.

Register and regulation of parish poor infants within the Bills of Mortality, 7 *Geo.* 3, *c.* 39, *ss.* 16 to 21.

Charges of medical examination, and of conveying and maintaining pauper lunatics, 9 *Geo.* 4, *c.* 40, *ss.* 36, 38.

,, for relief to prisoners during their confinement in gaols which are not county gaols, 52 *Geo.* 3, *c.* 160, *ss.* 1 to 7.

Costs of relief to persons under orders of removal, 4 & 5 *Wm.* 4, *c.* 76, *s.* 84.

Suspended orders, 35 *Geo.* 3, *c.* 101, *s.* 2, and 49 *Geo.* 3, *c.* 124, *ss.* 1 to 3.

Removal of natives of Guernsey and Jersey, 11 *Geo.* 4, *c.* 5, *s.* 2.

Reimbursing the charges of parish officers for maintaining and removing certificated persons, 3 *Geo.* 2, *c.* 29, *s.* 9.

Providing land for the poor, 59 *Geo.* 3, *c.* 12, *ss.* 12 to 14; 1 & 2 *Wm.* 4, *c.* 42, *ss.* 1 to 5; *ib. c.* 59, *ss.* 1, 2; 2 *Wm.* 4, *c.* 42, *s.* 1; 5 & 6 *Wm.* 4, *c.* 69, *s.* 4.

Costs of appeals, supporting or resisting orders of removals, 4 & 5 *Wm.* 4, *c.* 76, *s.* 82. The costs of appeals against overseers' accounts cannot be paid out of the poor's rate, *R.* v. *Johnson*, 5 *A.* & *E.*, 340. Where overseers can successfully support a rate against an appeal, it would appear that the costs of the defence may be paid out of the poor's rate; but *qu.*, where the rate is amended or quashed?

Secondary Purposes.

The secondary purposes to which parliament has authorized the application of the poor's rate, in addition to those originally contemplated, are described in the following list. Perhaps, however, there are some others which may have escaped notice:—

Maintenance of Lunatics suspected of crime, 1 *Vic.*, *c.* 14.

Emigration, 4 & 5 *Wm.* 4, *c.* 76, *s.* 63.

Vaccination of residents, 3 & 4 *Vic.*, *c.* 29. *s.* 1, expressly declared a charge on the poor's rate by 4 & 5 *Vic. c.* 32, *s.* 1.

Allowances to discharged prisoners, 5 *Geo.* 4, *c.* 83. *s.* 15.

Salaries, allowances, &c., to gaolers, &c., in certain cases, 55 *Geo.* 3, *c.* 50, *s.* 12.

Salary to assistant overseer, 59 *Geo.* 3, *c.* 12, *s.* 7.

Salaries to paid officers, 4 & 5 *Wm.* 4, *c.* 76, *s.* 46.

Expenses of witnesses before Poor Law Commissioners, where allowed by the Commissioners, 4 & 5 *Wm.* 4, *c.* 76, *s.* 14.

Sums expended by constables in doing actual business of the parish in the relief or removal of vagrants, &c., 18 *Geo.* 3, *c.* 19, *s.* 4.

County rate, 12 *Geo.* 2, *c.* 29, *s.* 2; 13 *Geo.* 2, *c.* 18, *s.* 7; 55 *Geo.* 3, *c.* 51, *s.* 12; 57 *Geo.* 3, *c.* 94, *s.* 2; 1 & 2 *Geo.* 4, *c.* 85, *s.* 3 & 4. But see the summary of COUNTY RATE (30 to 59).

Borough rate in the nature of a county rate, 5 & 6 *Wm.* 4, *c.* 76, *s.* 92; 1 *Vic. c.* 81.

Compensation by the hundred in places not contributing to the county, rate, 7 & 8 *Geo.* 4, *c.* 31, *s.* 15.

Costs and compensations in the prosecution of felony in such places. 7 *Geo.* 4, *c.* 64, *ss.* 25 to 28.

Militia.—Payment of fine for not providing men, 42 *Geo.* 3, *c.* 90, *ss.* 158 to 161.

Making population returns, 3 & 4 *Vic. c.* 99, *s.* 17; 4 & 5 *Vic. c.* 7, *s.* 9.

Printing a sufficient number of jury lists, 6 *Geo.* 4, *c.* 50, *s.* 9.

Providing register offices, 6 & 7 *Wm.* 4, *c.* 86, *s.* 9; and 1 *Vic. c.* 22, *ss.* 19, 20.

Providing books and forms, 6 & 7 *Wm.* 4, *c.* 86, *s.* 30; and 1 *Vic. c.* 22, *s.* 25.

Fees of registrars, 6 & 7 *Wm.* 4, *c.* 86, *s.* 18, 29; 1 *Vic. c.* 22, *s.* 25.

Half the expenses incurred by overseers under recognizances in prosecuting masters for ill-treatment of parish apprentices, 32 *Geo.* 3, *c.* 57, *s.* 11.

PURPOSES OF THE RATE.

Secondary Purposes—continued.

Costs of constables in prosecuting persons keeping bawdy-houses, gaming-houses, or other disorderly houses, and 10*l.* to each of the two inhabitants entering into recognizances to prosecute, 25 *Geo.* 2, *c.* 36. *ss.* 5, 8.

Costs of overseers in like cases, 58 *Geo.* 3, *c.* 70, *ss.* 7 & 8.

Costs of prosecuting pawnbrokers for offences against the 39 & 40 *Geo.* 3, *c.* 99, *su. s.* 28.

Remuneration to persons appointed by vestry to examine measures—and the cost of procuring measures, 55 *Geo.* 3, *c.* 43, *s.* 8.

Allowances to discharged prisoners. (These are recoverable from the treasurer of the county on application by the overseer) 5 *Geo.* 4, *c.* 85.

Making out, printing and publishing lists of voters, 2 *Wm.* 4, *c.* 45, *s.* 56.

Making a survey and valuation, 6 & 7 *Wm.* 4, *c.* 96, *s.* 3.

PROPERTY IN RESPECT OF WHICH THE RATE IS IMPOSED.

General Conditions of the Rateability of Property.

35 No property is a subject of the rate unless it be locally within the 'parish.'

"The assessments ought to be made according to the visible estate of the inhabitants in the town, both *real* and *personal*."

"No inhabitant is to be taxed to contribute to the relief of the poor in regard to any estate he 'hath elsewhere in any other town or place.'' *Earby's Case*, 1 *Bott.*, 136.

Property in extra-parochial places.

Thus all property situate in extra-parochial places, *i. e.* places not 'parishes (11),' is exempt from this tax. *R.* v. *Welbeck*, 1 *Bott.*, 50; *R.* v. *Peterborough*, *ib.*, 59; *Moxon* v. *Horsenail*, *ib.*, 153; *Dolting* v. *Stokelane*, *ib.* 45; *R.* v. *Denham*, *ib.*, 48; *R.* v. *Grafton*, *ib.*, 49.

Property in other 'parishes.'

Lands in parish A. allotted in lieu of common appurtenant to lands in the parish of B., and to be held in like manner as those lands, cannot be rated in B. but being locally in A. must be rated there; *R.* v. *Walsall*, 1 *Bott.*, 68; *Kemp* v. *Spence*, *ib.*, 96;

and any agreement between parishes to the contrary is absolutely void. *R.* v. *Walsall*, 1 *Bott*, 68.

So as to *personal* property,—money invested in public funds, or in Government securities, is not a subject of the rate. *R.* v. *Maddermarket*, 1 *Bott.*, 217. Nor money lent on security of 'lands lying out of the 'parish.' *R.* v. *White*, 1 *Bott.*, 199. The same would probably be the case with money lent on lands in the 'parish' wherein the lender resides.

Occasional presence in the 'parish' is sufficient in the case of ships, packets, &c., which are rateable, while absent, if they sail from or return to the 'parish' wherein their owners reside. *R.* v. *White*, 1 *Bott.*, 199; *R.* v. *Liverpool*, 8 *East*, 445 *n.*; *R.* v. *Collison*, *ib.*; *R.* v. *Howard*, *ib.*; *R.* v. *Nicholson*, 12 *East*, 330; *R.* v. *Shepherd*, 1 *Bott.*, 106; *R.* v. *Jones*, *ib.*, 219.

36 No property is a subject of the rate unless it be visible within the 'parish.'

See the preceding paragraph.

This criterion of rateability, though not very easily reconcilable with the liability of tithe, an incorporeal hereditament, is well established.

Corporeal property.

The rule would allow every kind of corporeal property, real and personal, to be rated.

It is only by virtue of the previous criterion (35) and the subsequent cri-

POOR'S RATE.

PROPERTY IN RESPECT OF WHICH THE RATE IS IMPOSED.

General Conditions of the Rateability of Property—continued.

terion of *profitableness* (37), and by the constructive exclusions of some kinds of corporeal property (38, 42, 43), that any *corporeal* property obtains an exemption from the tax.

Incorporeal property.

The present criterion would exempt all this class of property. But it does not exempt—

—*Tithes;*

For two kinds of tithes are made *expressly* liable by the statute—*tithes impropriate* (40) and *propriations of tithes* (41). The third kind, namely, *the tithes of the efficient incumbent*, parson or vicar, is made liable by construction (56).

But this rule appears to exclude all other incorporeal hereditaments;

—*Other incorporeal hereditaments, as*—

—*Rents*, &c.

Thus rents, casual profits of manors, escheats, heriots, reliefs, fines on admissions, deaths, and purchases, and other casualties, are not rateable:

first, with respect to property rateable in the hands of the occupier,—for to rate the receiver of the rent also would be to rate the property twice over. *Earby's Case*, 1 *Bott.*, 135; *R.* v. *Vandewall*, *ib.*, 156; *R.* v. *Alderbury*, *ib.*, 210; *per Lord Mansfield*, *Lord Bute* v. *Grindall*, 185.

secondly, with respect to property which is itself exempt, because this would obviously be to destroy the exemption which the statute is held to have created.

—*Franchises and easements.*

Profits of mere franchises or easements are exempt; thus—

Tolls of a lighthouse are exempt, *R.* v. *Rebowe*, 1 *Bott.*, 166; *R.* v. *Tynemouth*, *ib.*, 225; *R.* v. *Coke*, *ib.*, 254; *R.* v. *Fowke*, 5 *B.* & *C.*, 514 *n.*

but the house itself being *visible*, &c., is rateable; *R.* v. *Fowke*, 5 *B.* & *C.*, 514 *n.*

Tolls of a market are exempt, *R.* v. *Bell*, 1 *Bott.*, 237; *R.* v. *Eyre*, 12 *East*, 418.

Tolls of a ferry are exempt, *R.* v. *Nicholson*, 1 *Bott.*, 102; *William* v. *Jones*, *ib.* 103.

but the boat being *visible*, &c., is rateable;

A mere right of fishing, without an interest in the soil, is exempt, *R.* v. *Ellis*, 1 *Bott.*, 232.

but if the right accompanies an interest in the soil, it is rateable as land; *R.* v. *Ellis*, 1 *Bott.*, 233.

Generally, when the franchise or easement accompanies an interest in the soil, the profit is rateable as a profit of the land; *R.* v. *Bell*, 1 *Bott.*, 209; *R.* v. *Nicholson*, *ib.*, 102.

—*Commons.*

Commons, whether appendant, appurtenant, or in gross, being mere easements are exempt; *R.* v. *Churchill* & *Booth*, 4 *B.* & *C.*, 750; *Kemp* v. *Spence*, 2 *B. Rep.* 1245; *R.* v. *Sadbury*, 1 *B.* & *C.*, 389; *R.* v. *Watson*, 5 *East*, 480; *R.* v. *Tewkesbury*, 13 *East*, 155.

—*Ways.*

Rights of way on the same ground are exempt; *R.* v. *Jolliffe*, 2 *T. R.*, 90; and Privilege of entry; *R.* v. *Trent* & *Mersey Navigation*, 4 *B.* & *C.*, 57.

—*Offices.*

Offices are exempt; *R.* v. *Shalfleet*, 1 *Bott.*, 160; *R.* v. *White*, *ib.*, 199.

except in as far as they confer an interest in land, houses, &c.; *Ayr* v. *Smallpeace*, 1 *Bott.*, 154; *R.* v. *Eyles*, *ib.*, 183.

—*Pensions.*

It is said that the pension of a parson is rateable; *per Nares J.* in *Lowndes* v. *Horne*, 1 *Bott.*, 175;

PROPERTY IN RESPECT OF WHICH THE RATE IS IMPOSED.

General Conditions of the Rateability of Property—continued.

this, however, probably applies only to a pension *in lieu of tithe*. See (56, 57, 58).

—*Advowsons, dignities, and other incorporeal hereditaments.*

The liability of advowsons, dignities, corodies, and annuities has not been agitated, but on the principles applicable to the incorporeal hereditaments above described they are doubtless exempt.

—*Incorporeal rights joined with occupation of the soil.*

But in all these cases, if there be any several occupation of the soil, this being *local, visible*, &c. renders the occupier rateable: thus—

A waggon way with possession of the soil is a subject of rating; *R.* v. *Bell*, 1 *Bott.*, 209.

Common with possession of the soil is a subject of rating; *R.* v. *Sadbury*, 1 *Bott.*, 244. *R.* v. *Watson*, 1 *Bott.*, 216.

The rule also excludes the following kinds of profits:—

—*Personal profits.*

Profits of labour, talent, or personal application are exempt;
the fees of a physician or barrister, *see Lord Mansfield*, 3 *Burr.*, 1341;
the profits of an attorney, *R.* v. *Startifant*, 1 *Bott.*, 207;
the salary of an officer in the salt office, *R.* v. *Shalfleet*, 1 *Bott.*, 160;
of a clerk in the customs, *R.* v. *White*, 1 *Bott.*, 199;
of a merchant's clerk, *R.* v. *White*, 1 *Bott.*, 199;
of a captain in the merchant service, *R.* v. *White*, 1 *Bott.*, 199;
the pay of officers or sailors in the navy, *R.* v. *White*, 1 *Bott.*, 199;
the profit of a silk throwster's labour in cleaning and throwing his employer's silk, *R.* v. *Sherborne*, 1 *Bott.*, 221.

—*Interest of money.*

Money invested in public funds or in government securities is exempt, *R.* v. *Maddermarket*, 1 *Bott.*, 217;
money lent on security of lands lying out of the parish is exempt, *R.* v. *White*, 1 *Bott.*, 199;
Qy. if lent on lands in the parish where the lender resides?

37 No property is a subject of the rate unless it be productive of a private profit within the 'parish.'

It must constitute an '*ability*' of the rate-payer.
43 *Eliz.*, *c.* 2, *s.* 1.

The preceding criteria, (35) and (36), combined with the present, constitute the poor's rate, and other rates and taxes assessed in the same manner, taxes *on property*, *not* taxes *on income*. There must be *a local* (35) *visible* (36) *property*. This being productive of a profit (37) or income,—the possessor or occupier then becomes rateable on the amount of this profit or income. But *an income* of the same amount, not derived from a local visible property, is not a subject of these taxes.

The leading principle in this system of taxation, therefore, is, that it affects only *property* productive of *profit or income*.

It follows that the two great classes of exemptions are,—First, of *all properties which do not produce profits or income*, such as money in hand, furniture, &c., in the use of the owner. Secondly, of *all incomes not derived from property*, such as the profits of a man's labour, skill, or talent.

1. *Property dedicated to the public.*

The following kinds of real property, *not being productive of a private profit anywhere*, are excluded:—

Property held exclusively for public purposes,
barracks, *Lord Amherst* v. *Lord Somers*, 1 *Bott.*, 188; *R* v. *Terrott*, 1 *Bott.*, 213;
crown property, palaces, parks, (but this appears to be an exemption of the king rather than of the property, for this becomes rateable when occupied for the private benefit of a subject,) *R.* v. *Matthews*, 1 *Bott.*, 170.

Poor's Rate.

PROPERTY IN RESPECT OF WHICH THE RATE IS IMPOSED.

General Conditions of the Rateability of Property—continued.

churches, chapels, &c., *R.* v. *Woodward*, 1 *Bott.*, 200; 3 & 4 *Wm.* 4, *c.* 30.
charitable institutions—schools, *R.* v. *Waldo*, 1 *Bott.*, 182.
hospitals, *R.* v. *St. Luke's Hospital*, 1 *Bott.*, 157; *R.* v. *St. Bartholomew's*, *ib.*, 16.
but, Union workhouses have been recently held liable, *R.* v. *Guardians of Wallingford*, 2 *P. & D.* 226, *sed quære.*

—Public works, the tolls and profits of which are not applicable to private purposes, are exempt, *R.* v. *Commissioners of Salter's Lead Mine*, 1 *Bott.*, 198; *R.* v. *Inhabitants of Liverpool*, 7 *B. & C.*, 61; *R.* v. *Trustees of the River Weever*, *ib.*, 70 *n.*; *R.* v. *Sculcoates*, 1 *Bott.*, 101; *R.* v. *the Commissioners for Lighting Beverley*, 6 *A. & E.*, 645.
And the property of municipal corporations, the income of which is applicable in aid of the borough fund (5 & 6 *Wm.* 4, c. 76, *s.* 92), is also exempt, *R.* v. *the Corporation of Liverpool*, 9 *A. & E.* 435, except insofar as it is made liable by the 4 & 5 *Vic. c.* 48. See *post* (76 *b*).

2. *Public property in private use.*
But if any part of any such public properties be productive of a private profit, such profit becomes a subject of the rate.
The following are therefore liable to the rate:—
an officer's apartments in barracks, *R.* v. *Terrott*, 1 *Bott.*, 213;
private apartments, &c., in colleges; free-schools, &c., *R.* v. *Gardner*, 1 *Bott.*, 167; *R.* v. *Catt*, *ib.*, 205;
alms-houses and charity-lands, occupied by alms-people, *R.* v. *Munday*, 1 *Bott.*, 211; *R.* v. *Green*, 9 *B. & C.*, 203;
crown property in the hands of private occupiers, *Lord Bute* v. *Grindall*, 1 *Bott.*, 185; *R.* v. *Matthews*, *ib.*, 170; *R.* v. *Hurdis*, *ib.*, 191; *Ayr* v. *Smallpeace*, *ib.*, 154;
parts of churches, chapels, &c., occupied not for purposes of public worship, or charitable education; 3 & 4 *Wm.* 4, *c.* 30;
lunatic asylums, to the extent to which profit is made by private patients, *R.* v. *St. Giles's, York*, 3 *B. & A.* 573;
apartments rented in a prison, *R.* v. *Eyles*, 1 *Bott.*, 183.

3. *Private property not producing its profit in the 'parish.'*
And property productive of private profit, but *not producing the profit within the parish*, is exempt within that parish.
As land in one 'parish' converted into a drainage for the improvement of lands situated in another parish, *R.* v. *Sculcoates*, 1 *Bott.*, 101;
but if tolls were payable, or other profits were received in respect of such land, it would be a subject of the rate, *R.* v. *Sculcoates*, 1 *Bott.*, 101.

4. *Private property not producing any profit.*
Personal property in a man's own use is exempt, as not producing a profit or income,
as household furniture in a man's own use, *R.* v. *White*, 1 *Bott.*, 199.
Qy.—Of household furniture let in lodgings, and furnished houses by upholsterers, &c.?
So hard money in the owner's hands is exempt, *R.* v. *White*, 1 *Bott.*, 199.
but *qy.* when lent on security of lands within the parish? *R.* v. *White*, 1 *Bott.*, 199.
And even trading capital or stock in trade is exempt, if it be not actually profitable, *R.* v. *Macdonald*, 1 *Bott.*, 226.

5. *Private property ceasing to be profitable.*
Generally any property ceasing to be profitable ceases to be a subject of the rate, *R.* v. *Waldo*, 1 *Bott.*, 182; *R.* v. *Sculcoates*, 1 *Bott.*, 101.

6. *Properties conjointly profitable.*
If one kind of property be necessary to the production of the profits of another, only one of such kinds of property is a subject of the rate.

PROPERTY IN RESPECT OF WHICH THE RATE IS IMPOSED.

General Conditions of the Rateability of Property—continued.

Thus cattle and stock on a farm, necessary to produce the profits of the farm, are not subjects of a rate, *R.* v. *Barking*, 1 *Bott.*, 145.

But if they produce a profit separate from the farm, as cattle kept for sale on food not the produce of the farm, as on oil-cake, &c., become a subject of the rate, being local (35), visible (36), and profitable (37) within the parish, *R.* v. *Brown*, 1 *Bott.*, 220.

7. *Measure of profit.*

The profits of personal property are subject to the rate only to the extent by which they exceed the expenses of the owner and his family, and his debts and liabilities, *R.* v. *White*, 1 *Bott.*, 199.

1. *Property Liable Expressly.* 2. *Property Liable by Implication.*

1. *Property Liable Expressly.*

38 Lands (in occupation) in the parish.

43 *Eliz. c.* 2, *s.* 1.

The word 'lands' has not here the extensive signification which the word generally has in legal language. By its own force the word ordinarily denotes the whole body of the soil itself, including minerals, &c., and the growing produce upon the soil, such as timber, &c. But the word has, in this statute, received a peculiar construction by reference to other terms used in connexion with it.

For any property to be rateable, it must produce a profit (37).

Profits of lands.

In the case of land, the profit may be produced in several ways, as—

1. *By consumption of the body of the soil itself.*

By the consumption of the land or soil itself, as in the case of mines, quarries, brick-earth, fullers'-earth, gravel-pits, &c.

The word 'land,' in ordinary legal language, includes all these; but in this statute it has a more limited signification.

It does not include mines. 'Coal-mines' are afterwards expressly mentioned and made liable to the rate, not as 'land,' but as being made liabe by name (42). All other mines are exempted, for it is inferred, by a common rule of construction, that, as coal-mines are expressly mentioned, and by name made liable to the rate, it was the intention of the statute that all other mines not mentioned in it should be exempted; *R.* v. *Sedgley*, 2 *B.* & *Ad.*, 73.

But even this exemption has its exceptions; for though all mines, other than coal-mines, are thus held to be exempted as 'mines,' yet any part of *the produce of any mine reserved to the owner* is held to be subject to the rate, *not as a mine*, but as a reservation of the soil or *land* itself, and the owner is rateable for this as *occupying land*; *R.* v. *St. Austell*, 5 *B.* & *A.*, 693.*

---

* Lord Tenterden, in *R.* v. *Sedgley*, describes the difficulty he felt in attempting to reconcile the judicial dicta on this subject. The decision in *R.* v. *St. Austell*, and the analogous cases amount to this:—the whole mine, not being a coal-mine, is exempt. *R.* v. *Sedgley*, &c. If the owner works it, and takes the *whole* produce, he is not rateable for it either as 'mine' or 'land.' If he lets it to an occupier, reserving a rent, the occupier is not rateable for it either as 'mine' or 'land;' nor is the owner liable, no one being rateable for a mere rent. But if the owner lets it, reserving a *part* of the produce, that *part* is held to be 'land,' although the whole mine, or the whole of its produce, is not 'land;' and the owner is rateable for this *part* of the mine as occupier of land, though he would not be rateable for it if he occupied and worked the *whole*, and took directly the *whole* produce.

This certainly seems to involve the dilemma, that if the whole of the produce is exempt as 'mine,' each part of that whole is exempt; or that if part is 'land,' and subject as such to the rate, the rest being exactly of the same nature is 'land,' and subject in like manner to the rate.

POOR'S RATE.

PROPERTY IN RESPECT OF WHICH THE RATE IS IMPOSED.

1. *Property Liable Expressly*—continued.

But again, if the produce of the mine reserved by the owner be wrought upon, as if the ore of a lead-mine is to be smelted before it is rendered, this not being a portion of the soil, is not subject to the rate; *R.* v. *Earl of Pomfret*, 5 *M. & S.*, 139:

or if, instead of a portion of the produce of the mine being reserved, the value in money of such a portion is reserved, the owner is not rateable for this; *R.* v. *Tremayne*, 4 *B. & Ad.* 162.

The profits of land arising by consumption of the land or soil itself, which are the subject of rating, are therefore,

a. The body of the soil itself taken from the surface, or excavated or quarried by any operation not amounting to mining, as stone-quarries, lime-works, slate-works, salt-works, potters'-clay, brick-earth, fullers'-earth, peat, sand, marl, and gravel-pits, *R.* v. *Dunsford*, 4 *Nev. & Man.*, 349; *R.* v. *Alberbury*, 1 *East*, 535; *R.* v. *Woodland*, 2 *East*, 164, 1 *Bott.*, 212; *R.* v. *Brown*, 8 *East*, 528; *R.* v. *Sedgley*, 2 *B. & Ad.*, 65.

But if any such bodies be taken by mining operation, they are exempt,

as lime-stone mines, *R.* v. *Sedgley*, 2 *B. & Ad.* 65;

clay-mines, *R.* v. *Brettell*, 3 *B. & Ad.*, 424;

stone-quarries, *R.* v. *Dunsford*, 4 *Nev. & Man.*, 349.

b. Minerals, the produce of mining operations, when reserved by the owner in the state of mineral, are rateable as land, *R.* v. *St. Austell*, 5 *B. & Ad.* 693.

c. So are mineral-waters, salt-springs, &c., *R.* v. *Miller*, 3 *Comp.*, 619, 1 *Bott.*, 174.

—2. *By taking the renewable produce of the land.*

By taking the vegetable growing produce of the soil, whether wild or cultivated. It is immaterial whether these be cropped or gathered by human labour, or be consumed by cattle, or animals productive of profit.

Rateability in respect of these profits is subject to but one exception. *Wood and timber* of all kinds would have been included as the profitable productions of the land, and rateable accordingly, if the statute had not made express mention of '*saleable underwoods*,' as one of the subjects of occupation and rating. On the same principle as that by which all mines but coal-mines are exempted, namely, that the expression of one thing shows that other things of the same class are intended to be excluded, the mention of 'saleable underwoods,' is held to exempt timber and wood of all other kinds (43).

—3. *By mere use of the land as a support.*

By mere occupancy of the land for profitable purposes, as for foundation for erections or for standing places of persons or commodities, or as places for setting out or preparing of commodities. Land is thus occupied in the cases of private roads, bridges, docks, yards, wharfs, stalls, bleaching-grounds, or by laying pipes and mains for water, gas, &c.

The following have been the subjects of express decisions:—

ways, *R.* v. *Bell*, 7 *T. R.*, 598;

canals, *R.* v. *Inhabitants of Kingswinford*, 7 *B. & C.*, 236;

reservoirs, *R.* v. *Corporation of Bath*, 14 *East*, 609;

docks, *R.* v. *Hull Dock Company*, 1 *T. R.*, 219, 1 *Bott.* 184.

And, where a right or navigation or fishery involves an interest in the soil, it is rateable; but the mere right over the water, without an interest in the *land* is not a subject of rating;

navigations, *R. Thomas*, 9 *B. & C.*, 114; *R.* v. *Mersey and Irwell Navigation Company*, 9 *B. & C.*, 95; *R.* v. *Ayre and Calder Navigation*, 9 *B. & C.*, 820; *ib.* 3 *B & Ad.*, 139; *Williams* v. *Jones*, 12 *East*, 346.

fisheries, *R.* v. *Ellis*, 1 *M. & S.*, 652, 1 *Bott.* 233.

The great exception in this class of profits is, where the land is occupied by erections coming under the denomination of houses; which, being men-

PROPERTY IN RESPECT OF WHICH THE RATE IS IMPOSED.

1. *Property Liable Expressly*—continued.

tioned by name in the statute (39), are not rateable as improvements in the land, but as '*houses*.'

It might have been argued—as in the case of mines and woods—that 'houses' being expressly mentioned, the intention of the statute was to exempt all other erections and buildings not being houses. Such a construction, however, has not been adopted, nor, it is believed, ever contended for.

Lord Mansfield, in *R.* v. *Miller*, 3 *Comp.*, 69, treats certain buildings as making the value of the 'land.' "This is a rate upon four acres of land, let to the defendant at 100*l.* a-year, and the value" (of the land) "arises partly from the building and partly from the spring that produces the mineral water." In the same manner the erection of a bridge is treated as a mode of occupying 'land,' in *R.* v. *Barnes*, 1 *B.* & *Ad.*, 113.

Accordingly, every kind of erection productive of profit to the occupier of the land is held to be rateable, as

bridges, *R.* v. *Barnes*, 1 *B.* & *Ad.*, 113;
kilns,
furnaces,
gas-works, *R.* v. *Birmingham Gas Co.*, 1 *B.* & *C.*, 506, 1 *Bott.*, 245.
water-works, cuts, wares, locks, and dams, *R.* v. *Mersey and Irwell Navigation*, 9 *B.* & *C.*, 95; *R.* v. *Thomas*, 9 *B.* & *C.*, 114.
mills,
weighing-machines,
carding-machines,
and even billiard-tables, if let with the building, *R.* v. *St Nicholas*, 1 *Bott.*, 180; *R.* v. *Hogg*, 1 *Bott.*, 186.

These should, where they are not appurtenances of a house (39), be rated as 'land' improved by the erection.

—4. *Distinct profits of the same land.*

There may be distinct occupations of the same land, as of the surface and of the subsoil.

Thus the ranger of the Green Park was rateable for the herbage, and the Chelsea Water Company for the occupation of the ground by pipes, *R.* v. *Chelsea Water Co.*, 5 *B.* & *Ad.*, 156.

39 Houses (in occupation) in the parish,

43 *Eliz.* c. 2, *s.* 1.

a. excepting churches, district churches, and Episcopal chapels of the established church, and other chapels, meeting-houses, and premises duly certified for the performance of religious worship.

3 & 4 *Wm.* 4, *c.* 30, *s.* 2.

insofar as they are exclusively appropriated to public religious worship, or used as Sunday, or infant-schools, or for the charitable education of the poor.

3 & 4 *Wm.* 4, *c.* 30, *s.* 2.

So far as human dwellings are concerned, the sense of the word '*houses*' is sufficiently obvious. The application in the phrase "the house of God," is also recognised in law, and the exemption of churches and chapels is therefore most properly to be regarded as an exemption to the rateability of 'houses,' not to the rateability of land (see observations on 'Lands,' *supra* 38, *note* — 3); and that part of any church or chapel which is rateable on account of its being occupied as a dwelling, evidently falls within the ordinary description, so far as its use is concerned, of a house.

The dwellings of cattle and other animals, such as stalls, stables, menageries, aviaries, &c., may be included on the strength of the customary phrase of 'housing cattle.'

The like expression of 'housing a crop' may extend the sense of this term to barns, granaries, &c.

POOR'S RATE.

PROPERTY IN RESPECT OF WHICH THE RATE IS IMPOSED.

1. *Property Liable Expressly*—continued.

Ware'houses' are *ex vi termini*, a species of 'houses.' So of light'houses.' Thus the word 'house' may be conceived to have been applied in its etymological and most extensive sense, as denoting any erection for shelter or cover of man, beast, or property.

There are, however, *other erections* which are held to be rateable, but which cannot in any sense be considered as coming within the meaning of the word 'houses,' such as kilns, furnaces, bridges, &c. (See observations on 'Lands,' *supra* 38, *note*—3.) It would appear that these must be rateable as improvements of the 'land;' however inconsistent this may be with other constructions of the statute, on which it has been held, that 'coal-mines' being mentioned, all other mines are exempt; that 'saleable underwoods' being mentioned, all other wood and timber are exempt; and in conformity with which it might have been contended that 'houses' being mentioned, all other buildings and erections are exempt.

When a house is let at a higher rent in consequence of a weighing-machine, carding-machine, malt-mill, or billiard-table, being set up within it, although these be not attached to the freehold, it is rateable to the extent of the value improved by the addition.—*R.* v. *St. Nicholas*, 1 *Bott.*, 180; *R.* v. *Hogg*, *ib.*, 186.

40 Tithes Impropriate arising within the 'parish'
43 *Eliz.* c. 2, *s.* 1.

Tithes impropriate are the tithes severed from a benefice, and due to some lay person or corporation, 1 *Nolan*, *P. L.* p. 144. Tithes vested in lay persons under Enclosure Acts, *R.* v. *Great Hambledon*, 1 *A. & E.*, 145.

a. EVERY RENT-CHARGE, payable instead of such tithes,
shall
be subject to all parliamentary, parochial, county, and other rates, charges, and assessments,
in like manner as the tithes commuted for such rent-charge have heretofore been subject.
6 & 7 *Wm.* 4, *c.* 71, *s.* 69.

41. Propriations of Tithes arising within the 'parish.'
43 *Eliz.* c. 2, *s.* 1.

Appropriations of tithes are tithes severed from the benefice, and annexed to a spiritual corporation. 1 *Nolan*, *P. L.*, p. 145.

a. EVERY RENT-CHARGE, payable instead of such tithes,
shall
be subject to all parliamentary, parochial, county, and other rates, charges, and assessments,
in like manner as the tithes commuted for such rent-charge have heretofore been subject.
6 & 7 *Wm.* 4, *c.* 71, *s.* 69.

42 Coal-mines (in occupation) in the 'parish.'
43 *Eliz.* c. 2, *s.* 1.

Coal-mines are only rateable when worked, *R.* v. *Parrot*, 5 *T. R.*, 593; *R.* v. *Bedworth*, 8 *East*, 387.

The mention of 'coal-mines' is held to exempt all other mines from poor's rate, according to the maxim *expressio unius est exclusio alterius*, *R.* v. *Sedgley*, 1 *B. & Ad.*, 73, as,

lead-mines, *Lead Smelting Company*, v. *Richardson*, 3 *Burr.*, 1341, 1 *Bla.*, 389.

iron-mines, *Ib. R.* v. *Cunningham*, 5 *East.*, 478, 1 *Bott.* 215.

limestone-*mines*, *R.* v. *Sedgley*, 2 *B. & Ad.*, 65.

clay-*mines*, *R.* v. *Brettell*, 3 *B. & Ad.*, 424.

PROPERTY IN RESPECT OF WHICH THE RATE IS IMPOSED.

1. *Property Liable Expressly*—continued.

The exemption is extended to engines used in the mining processes, *R.* v. *Bilston*, 5 *B. & C.*, 851, 8 *Dowl. & Ry.*, 734.

The exemption depends on the fact that the mineral is obtained by the process of mining. Where minerals are taken from the surface of the earth, or by excavations not denoted by the word 'mines,' the occupier of the land is rateable for the profit as a profit of 'land.' (See observations on 'Land,' *supra* 38, *note* — 1.) *R.* v. *Sedgley*, 2 *B. & Ad.*, 65; *R.* v. *Alderbury*, 1 *East*, 535; *R.* v. *Woodland*, 2 *East*, 164; *R.* v. *Brettell*, 3 *B. & Ad.*, 424; *R.* v. *Dunsford*, 4 *Nev. & Man.*, 349.

It might have been argued on the principle by which all mines other than coal-mines were exempted, that when coal is taken from the surface, or from pits and excavations not denoted by the word 'mines,' it would not be a subject of the tax. But it does not appear that this argument has ever been used. The rate appears always to be submitted to by whatever means the coal is taken; however, it would seem to be clear that in such cases the rate should purport to be made on the 'land,' and not on coal-*mines*.

3 Saleable Underwoods (in occupation) in the 'parish.'

43 *Eliz.*, *c.* 2, *s.* 1.

'Underwoods,' defined by Bayley, J., as "wood which grows expeditiously, sends up many shoots from one stool (stem), the root (stem) remaining perfect, from which the shoots are cut and producing new shoots, and so yielding a succession of profits." *R.* v. *Ferrybridge*, 1 *B. & C.* 375; 2 *Dowl. & Ry.*, 634.

"I should consider all such trees as are never likely [not intended?] to grow to be timber [*qu.* firs, larches?] to be underwood." "For instance, if ash or oak be cut down at stated periods for hop-poles, I should consider them underwood." *Per Littledale, J. Reg.* v. *Narbeth North*, 1 *P. & D.*, 590. Though these were the opinions expressed by the Judges in the last case, they did not decide accordingly; but supported the decision of the Quarter Sessions to the contrary effect.

'Saleable' defined "such (underwoods) as are intended or destined for sale in contradistinction to such as are to supply the land with estovers for fuel and the other purposes of the estate." *R.* v. *Mirfield*, 10 *East*, 219. *R.* v. *Ferrybridge*, 1 *B. & C.*, 375; *Aubrey* v. *Fisher*, 453; *R.* v. *Minchinhampton*, 3 *Burr.*, 1308.

The mention of 'underwoods' is held, on the same principle as that by which other mines than coal-mines are exempted (see above observations on 'Land' *supra* 1, and on 'coal-mines') to exempt all other kinds of wood and timber.

thus any produce which by the custom of the country is considered 'timber' is exempt, *R.* v. *Minchinhampton*, 3 *Burr.*, 1310; 1 *Bott.*, 285;

as is all other wood not defined as 'underwood,' such as firs and larches, planted for protection of other trees. *R.* v. *Ferrybridge*,

horse chestnuts, limes, plums, aspins, walnut, and other tall trees, *Ib. & Aubrey*, v. *Fisher*, 10 *East*, 453.

2. *Property Liable by Implication.*

55 Property constituting 'the ability of the parish.'

43 *Eliz.*, *c.* 2, *s.* 1.

R. v. *Carlyon*, 1 *Bott.*, 190.

"The words of the statute are very loose and very general, and they may "be construed into any latitude, even to make all a man has, and all a man "gets, in any way the measure of his ability; for truly and substantially it "is so; but usage has explained and narrowed it;" *Per Lord Mansfield, Atkins & Davis*, 1 *Nol*, 164.

The property rateable to the poor, in addition to the subjects of occupation expressly mentioned (38 to 43), is limited to the following species (56 to 59):—

POOR'S RATE.

PROPERTY IN RESPECT OF WHICH THE RATE IS IMPOSED.

2. *Property Liable by Implication*—continued.

56 Tithes of the parson or vicar,

R. v. *Turner*, 1 *Bott.*, 147.

or modus, composition, rent, or money

paid to the parson or vicar in lieu of tithes;

R. v. *Bartlett*, 1 *Bott.*, 149 *n.*; *Lowndes* v. *Horne*, *ib.*, 175; *R.* v. *Lambeth*, 1 *Bott.*, 149. *R.* v. *Boldero*, 4 *B. & C.*, 471. *R.* v. *Wistow*, 5 *A. & E.*, 250.

The tithes expressly referred to in the 43 *Eliz.* are tithes impropriate (40), and propriations of tithes (41).

The tithes of the efficient incumbent are not expressly referred to, and are therefore only rateable by implication. The parson and vicar being named in the statute, it is inferred that it was in respect of their ability as derived from tithes, and the other profits of the benefice, that they were to be rated.

This conclusion is apparently inconsistent with the principle of the cases in which it has been held that one species of mines and one species of woods being mentioned by the statute as rateable in the hands of occupiers, the mention of the one species exempted all other species, not only in the hands of occupiers, but in the hands of inhabitants. The same construction which has made parsons and vicars liable for tithe, not mentioned in the statute, would obviously have served to make *inhabitants* liable for all those species of property in land, such as metallic mines and timber, in respect of which *occupiers* are not made liable.

In the case of *The King* v. *Great Hambledon*, 1 *A. & E.* 145, the Court of Queen's Bench appears, however, to have held that the vicar was not liable for a rent paid to him under an Enclosure Act instead of his tithes. The tithes not being extinguished, but still received by lay persons, the owners of the land. But in this decision the fact appears to have been overlooked that the vicar is not rateable for his tithe *eo nomine*, but for *his ability*, whether derived from tithe or otherwise.

If the rent or money be paid in lieu of tithes under an Act of Parliament, which provides that a sum shall be paid to the parson or vicar "free from rates" or "free from taxes," such rent or money is exempt. *Mitchell* v. *Fordham*, 6 *B. & C.*, 274; *Chatfield* v. *Ruston*, 3 *B. & C.*, 863.

A. EVERY RENT-CHARGE, payable instead of such tithes,

shall

be subject to all parliamentary, parochial, county, and other rates, charges, and assessments,

in like manner as the tithes commuted for such rent-charge have heretofore been subject.

6 & 7 *Wm.* 4, *c.* 71, *s.* 69.

The 6 & 7 *Wm.* 4, *c.* 71, *s.* 69, so far as the tithes of the efficient incumbent are concerned, reposes on the old construction of the statute of Elizabeth, by which those tithes were held to be a subject of the rate. It merely substitutes the rent-charge for the tithes, making the rent-charge liable to the same rates "in like manner as the tithes had theretofore been subject."

57 Pensions payable to the parson (or vicar).

Per Nares, J. in Lowndes v. *Horne*, 1 *Bott.*, 175.

This perhaps only applies to a pension paid in lieu of tithes,—payments in lieu of tithe being alone in question in this case.

58 Oblations and other offerings which constitute the rectorial or vicarial dues.

Per Lord Kenyon, C. J. in R. v. *Carlyon*, 1 *Bott.*, 190.

But *qy.*, Are these rateable? They are not mentioned in the statute, and they do not arise from property of the parson or vicar *locally* within the parish (35). They are *income*, and not *property* productive of an income (37).

PROPERTY IN RESPECT OF WHICH THE RATE IS IMPOSED.

2. *Property Liable by Implication*—continued.

59 Personal property.

R. v. *Canterbury*, 1 *Bott.*, 162; *R.* v. *Barking*, 1 *Bott.*, 145; *R.* v. *Ambleside*, 1 *Bott.*, 230.

Personal property is exempt from poor's rate until the 31st of July, 1842, 3 & 4 *Vic.*, *c.* 89, *ss.* 1 & 2; 5 *Vic. c.* 7, *s.* 1. But it may still be held liable as heretofore to other rates and taxes, and the rules by which it is to be rated are therefore still necessary to be known.

The criteria described in (35), (36), and (37), exempt all those kinds of personal property which are not visible and locally situate and profitable in the parish where their owner inhabits. The tax upon personal property is by these criteria confined almost exclusively to *stock in trade*. The following properties have been expressly held to be liable:—

a clothier's stock, *R.* v. *Hill*, 1 *Bott.*, 173;
a draper's (shopkeeper's) stock, *R.* v. *Andover*, 1 *Bott.*, 171;
a merchant's stock of coals, deals, &c., *R.* v. *Mast*, 1 *Bott.*, 204;
a brewer's stock, *R.* v. *Mast*, 1 *Bott.*, 204;
a butcher for his capital employed in his trade, *R.* v. *Rodd*, 1 *Bott.*, 178;
the stock in trade of an apothecary who sells drugs, *Marshall* v. *Titman*, 2 *Moore & Scott*, 745.

See above (35, 36, 37), the limitations upon the liabilities in respect of personal property.

PERSONS LIABLE TO THE RATE.

2. *Individual Persons.*—Primary Liabilities.

74 Every inhabitant,

43 *Eliz. c.* 2, *s.* 1.

resident in the 'parish,'

R. v. *North Curry*, 1 *Bott.*, 111.

is liable, in respect of personal property (59), locally (35), visible (36), and productive within the 'parish' (37).

See notes on the next paragraph.

a. But until the 31st of July, in the year 1842,

3 & 4 *Vic. c.* 89, *s.* 2,
5 *Vic. c.* 7, *s.* 1,

NO 'OVERSEERS'
of any 'parish'
shall
tax any inhabitant thereof as such inhabitant,
in respect of his ability derived from stock in trade (59),
or from any other property
for or towards the relief of the poor.

3 & 4 *Vic. c.* 89, *s.* 1.

To what rates inhabitants' exemption extends.

As a consequence of being exempted from the rates to the relief of the poor, it follows that inhabitants are exempted from county rates and other charges so far as they are payable out of the poor's rate.

But the 3 & 4 *Vic. c.* 89, does not expressly exempt inhabitants from any other than poor's rate; consequently they appear to remain liable to all those rates which before that statute were accustomed or required to be imposed in like manner as the poor's rates were then imposed, viz.:—Church rates, constables' rates, county and borough rates, when not paid out of poor's rates, highway rates, hundred rates, county and district constables' rates, militia rates, and sewers' rates. It is necessary, therefore, that the nature of an 'inhabitant's' liability should still be known.

'Inhabitant' defined.

'Inhabitant' extends only to 'inhabitants resident' within the 'parish;'

POOR'S RATE.

PERSONS LIABLE TO THE RATE.

2. *Individual Persons.*—Primary Liabilities—*continued.*

and resident is said "to denote the place where an individual eats, drinks, "and sleeps, or where his family or his [menial or personal] servants eat, "drink, and sleep." *R.* v. *North Curry*, 1 *Bott.*, 111.

A person does not become an inhabitant by coming periodically into the parish to sell wares at a stall hired in a market, *Holledge's case*, 1 *Bott.*, 134;

nor by keeping a shop, warehouse, or counting-house which he frequents, and in which his shopman, foreman, &c., reside, *R.* v. *North Curry*, 1 *Bott.*, 111;

nor by taking up his lodging for a week in a town, *Holledge's case*, 1 *Bott.*, 134;

a corporation may be rated as 'inhabitant' *R.* v. *Gardner*, 1 *Bott.*, 167; (but *qy.* How does the rule as to *residence*, and the definition of residence, apply?) *R.* v. *North Curry*, 1 *Bott.*, 111.

For what property inhabitants are rateable.

Inhabitants are not rateable as such for lands (38), houses (39), tithes impropriate (40), propriations of tithes (41), coal-mines (42), or saleable underwoods (43), because these are rateable in the hands of the occupiers, and are not to be rated twice. Nor are inhabitants liable, as such, to be rated in respect of any property held to be exempted in the hands of occupiers by the effect of the expressions in the statute of 'coal-mines, saleable underwoods,' &c., (see 38, 42, 43,) because this would clearly be to rate in other hands property, which it is understood that the legislature intended to exempt.

Inhabitants, therefore, *are only liable for personal property* (59), locally (35), visible (36), and productive within the 'parish' (37).

And for such property no person can be rated but as a 'resident inhabitant;'

thus, stock in trade is not rateable if its owner do not reside in the 'parish' where it is situate, *R.* v. *North Curry*, 1 *Bott.*, 111;

nor if one partner reside in the 'parish,' is another partner not resident liable to be rated for his share of the partnership stock, nor is the resident partner liable in respect of more than his individual share, *R.* v. *Gosse*, 7 *B. & C.*, 60.

And an inhabitant is not liable in the 'parish' in which he resides, in respect of personal property situate in any other 'parish.' (35) *Earby's case*, *Bott.*, 136.

75 (Every) parson (and) vicar,
43 *Eliz. c.* 2, *s.* 1.

Notwithstanding the collocation of the words in the statute, 'every inhabitant, parson, vicar, and other,' in which the parson and vicar are enumerated as examples of inhabitants, it seems clear that a parson or vicar is rateable as such, although he be not an inhabitant resident in the 'parish.' Thus those incumbents who have a statutory licence for non-residence are still treated in all cases as liable. And where several townships of a parish separately maintain their own poor under the 13 & 14 *Car.* 2, *c.* 12, *s.* 17, (11), the parson or vicar is always rated for his tithe arising severally in each of the townships, although he be resident only in one of them.

Perhaps the apparent difficulty in the construction of the statute might be reconciled by the legal presumption that a clerk is always resident on his cure (2 *Inst.* 625).

Property in respect of which the Parson is liable.

a. The property for which the parson or vicar is liable, as parson or vicar, is mentioned in (56), (57), and (58).

The parson's tithe is not enumerated in the statute amongst the subjects of *occupation*, but is rateable only by reason of the parson and vicar being mentioned, and because such tithe consitutes their 'ability.' It follows that their tithes are not rateable in other hands than those of the parson or vicar.

PERSONS LIABLE TO THE RATE.

2. *Individual Persons.*—Primary Liabilities—*continued.*

The parson remains liable, therefore, although he has let his tithe, *R.* v *Lambeth*, 1 *Bott.*, 149; *R.* v. *Justices of Sussex*, 3 *Nev. & Man.*, 265. It ha been supposed (but *qu.*) that if let by deed, the lessee of the tithe is liable to be rated, *R.* v. *Wilson*, 5 *Nev. & Man.*, 119.

b. If the parson or vicar be likewise an *inhabitant* resident (73), he would in that character be also liable for any personal property (59), locally (35), visible (36), and productive within the parish (37).

c. If the parson or vicar be likewise an *occupier* of lands (38), houses (39), tithes impropriate (40), propriations of tithes (41), coal-mines, or saleable underwoods (42, 43), he would be liable as 'occupier' in respect of these, as he usually is in respect of his mansion and glebe.

76 and other—

43 *Eliz.*, *c.* 2, *s.* 1.

It is difficult to find a satisfactory explanation for the words 'and other.' The supposed ellipsis is of the word 'inhabitants,' and it is inferred that the sentence is to be completed thus, 'Every inhabitant, parson, vicar, and other inhabitant,'—'parson, and vicar,' being understood to be mentioned only as species or examples of the genus 'inhabitants.' But this is not consistent with the construction that a parson or vicar is rateable, whether 'inhabitant' in the parish or not (74). This being so, the parson and vicar are not mentioned as examples of inhabitants unless the presumption that a clerk is always resident on his cure (2 *Inst.* 625) will bring the parson and vicar constructively within the class of inhabitants.

However this may be, it is certain that the words 'and other' does not extend the operation of the statute beyond the word 'inhabitant', (73); and no person can be rated under these words who could not be rated without them, *R.* v. *North Curry*, 1 *Bott.*, 111.

77 and every occupier
of lands (38),
houses (39),
tithes impropriate (40),
propriations of tithes (41),
coal-mines (42),
or saleable underwoods (43),
in the 'parish' (11, 35, 36, 37)·

43 *Eliz.*, *c.* 2, *s.* 1.

Description of 'occupier.'

The occupier is the person who has the present use, enjoyment, or possession of the property;

a mere tenant at will is an occupier and rateable, *Jeffrey's case*, 5 *Co.* 66.

and the title of the occupier is immaterial, a disseisor in possession is an occupier, *R.* v. *Grindall*, *T. R.* 338.

it is immaterial where he resides.

the occupation of the servant or agent is the occupation of the master, *R.* v. *Field*, 5 *T. R*, 587.

a *corporation* may be an occupier, *R.* v. *Gardner*, *Coup.* 79. But if the corporation occupy for *public* purposes, they are not generally liable (37). The 4 & 5 *Vic. c.* 48, makes municipal corporations expressly liable in some cases. See below *a*.

If the use of any of the subjects of occupation be abandoned, as if a house be empty, it is not rateable, the property not being productive of profit. (37).

a If any lands, tenements, and hereditaments,
being the property and in the occupation of any municipal corporation of any city or borough named in either of the schedules A and B annexed to the Act passed in the sixth year of the reign of King William the

POOR'S RATE.

PERSONS LIABLE TO THE RATE.

2. *Individual Persons.*—Primary Liabilities—*continued.*

Fourth, to provide for the regulation of municipal corporations (5 & 6 *Wm.* 4, *c.* 76);

4 & 5 *Vic.* c. 48, *s.* 1, *pream.*

The city of London is not named in either of these schedules, and the corporation is therefore exempt from the operation of the present Act, as would likewise be any other municipal corporation of any place not enumerated, either in schedule A or B.

Before this enactment, the property of all the corporations named in those schedules was exempt. *R.* v. *Corporation of Liverpool*, 9 *A.* & *E.*, 645.

and producing an income to such corporation,

4 & 5 *Vic. c.* 48, *s.* 1, *pream.*

The income is referred to in the preamble, and ought to be the condition of rateability, otherwise the corporation may be rated for its public buildings, such as the police office, sessions-house, gaols, &c.

do not lie in any parish (Parish? 5 & 6 *Wm.* 4, *c.* 76, *s.* 142) situate wholly within the boundaries and limits of (such) city or borough.

Of course the meaning of the statute is that expressed above, namely, that the property shall only be exempt where the parish and the borough are or were identical, and where consequently the imposition of the rate on the borough property would be nugatory, as the same rate-payers who were relieved to any extent of the burden of poor's rate would be burdened to the same extent by the extra borough rate. But the words of the Act do not express this: for if property of Bristol were situate in any *other* borough in which only one rate was made for relief of the poor, the property of Bristol would, by the terms of the Act, be exempted in that other borough.

and if the poor within the limits of such city or borough as existing at the time of the passing of the said act (9 Sept. 1835) were not then, or if the poor within the present limits be not now, relieved by one entire rate

ib. proviso.

SUCH LANDS, TENEMENTS AND HEREDITAMENTS
shall,
from and after the passing of this Act,
be rateable and rated to the relief of the poor, as if such lands, tenements and hereditaments were not corporate property.

4 & 5 *Vic. c.* 48, *s.* 1.

The exemption of the corporation property as to other rates than the poor's rates is not abrogated by this Act.

And SUCH CORPORATION
shall
be deemed and taken to be beneficial occupiers thereof for all the purposes of rating (to the poor's rate? *s.* 1) as if such occupation was for their own private advantage (37), and not for any public purpose,
and *shal*
be liable to be rated as such occupiers
by their corporate style and title.

4 & 5 *Vic. c.* 48, *s.* 2.

b. In every borough
ANY PERSON occupying any house, warehouse, counting-house, or shop

This enables not only the occupier of a house, but the occupier of part of a house, as of a counting-house or shop, to be rated, at his pleasure, and

PERSONS LIABLE TO THE RATE.

2. *Individual Persons.*—Primary Liabilities—*continued.*

for the sake of conferring the franchise on him. But the occupier of part of a house is not otherwise liable to be rated, and the present provision does not impose any new liability on him, except at his own instance.

may
claim to be rated to the relief of the poor, in respect of such premises,
whether the landlord be or be not liable to be rated to the relief of the poor in respect thereof.

5 & 6 *Wm.* 4, *c.* 76, *s.* 11.

And if any such occupier make such claim,
and if he actually pay or tender the full amount of the last-made rate then payable in respect of such premises,
THE OVERSEERS of the parish in which such premises are situate
shall
put the name of such occupier
upon the rate for the time being.

5 & 6 *Wm.* 4, *c.* 76, *s.* 11.

There should be a provision for continuing the occupier's name upon the succeeding rates, otherwise the landlord, by paying those rates immediately that they are made, and leaving nothing payable for the occupier to tender, might successfully exclude him from the franchise.

And in case such overseers neglect or refuse so to do,
SUCH OCCUPIER
shall nevertheless,
for the purposes of this Act,
be deemed to have been rated to the relief of the poor, in respect of such premises,
from the period at which the rate was made, in respect of which he so claimed to be rated.

5 & 6 *Wm.* 4, *c.* 76, *s.* 11.

But where, by virtue of any Act of parliament, the landlord is liable to the payment of the rate for the relief of the poor in respect of premises occupied by his tenant,
NOTHING HEREIN CONTAINED
shall
be deemed to vary or discharge the liability of such landlord.
But in case any tenant who has been rated for such premises, in consequence of any claim by him as aforesaid,
make default in payment of the poor's rate payable in respect thereof,
THE LANDLORD
shall
be and remain liable for the payment of the rate
in the same manner as if he alone had been rated in respect of the premises.

5 & 6 *Wm.* 4, *c.* 76, *s.* 11.

As the undertaking by the occupier to pay the rate will always obtain for him a reduction of the amount of his rent, if he suddenly ceases to pay, the landlord remaining liable will be exposed to loss, and the landlord should in such case be enabled to recover the amount of the rate as if it were rent due from his tenant.

POOR'S RATE.

PERSONS LIABLE TO THE RATE.

2. *Individual persons.*—Substituted Liabilities.

83 If any house,
apartment,
or dwelling
in any 'parish,'

It is obvious that the present enactment could have no application to personal property. The reason for omitting *inhabitants* is therefore clear.

The reason for confining it to occupiers and owners of *houses, apartments, and dwellings*, omitting other erections, and other subjects of occupation, such as land, coal-mines, underwoods, &c. (38 to 43), is probably to be found in the consideration that the parish is not often subjected to loss by the short terms on which these kinds of property are let, or by the smallness of the tenements.

be respectively let
at any rent or rate not exceeding 20*l.*, nor less than 6*l.*, by the year, for any less term than one year;
or on any agreement by which the rent is reserved, or made payable at any shorter period than three months,

THE INHABITANTS of such 'parish,'

Only the word *inhabitants* is used in this statute. But there can be little doubt that *the parson or vicar* (75), and *occupiers* (77), whether inhabitants or not, are entitled to vote under the statute. The parson is *ex-officio* the president of every vestry, *Wilson* v. *M'Math*, 3 *Phill. Ec. Ca.*, 87; 3 *B. & Ald.*, 246 *in notis*.

The 58 *Geo.* 3, *c.* 69, *s.* 3, regulating the mode of voting in parish vestries, only mentioned *inhabitants*. But the omission of the other rate-payers in that Act was expressly remedied by the 59 *Geo.* 3, *c.* 85.

in vestry assembled,

The voting in such vestry is doubtless to be regulated by the 58 *Geo.* 3, *c.* 69, amended by the 59 *Geo.* 3, c. 85, notwithstanding the omission in the present statute of all express reference to the occupiers.

Notice of such vestry must be given, as required by the 58 *Geo.* 3, *c.* 69, 1, or *s.* 7, as amended by the 1 *Vic. c.* 45, *s.* 2.

may
resolve and direct
that any or every 'owner' (*infra a*), being the immediate lessor of the actual occupier of any such house, apartment, or dwelling respectively, be assessed to the rates for the relief of the poor,

This leaves other parochial rates to be assessed on the actual occupiers, and collected from them.

for or in respect of any or every such house, apartment, or dwelling, and the out-houses and curtilages thereof
instead of the actual occupier.

59 *Geo.* 3, *c.* 12, *s.* 19.

And THE INHABITANTS so assembled in vestry
may,
from time to time,
rescind, renew, vary, and amend every such resolution or direction as they see occasion.

59 *Geo.* 3, *c.* 12, *s.* 19.

PERSONS LIABLE TO THE RATE.

2. *Individual Persons.*—Substituted Liabilities—*continued.*

a. And THE 'OVERSEERS' of such 'parish'
shall
carry into effect all such resolutions and directions of the inhabitants in vestry assembled;
And in pursuance and execution thereof,
shall
in all rates made by them for the relief of the poor,
assess by a fair and equal pound rate
every such 'owner' as aforesaid, to whom such resolution and direction extends,
according to the actual rent at which such house, apartment, or dwelling is let;

This makes *the actual gross rent* for which the property is let the basis of the assessment on the owner, instead of *a reasonable average net rent*, which is the measure of the rateable value in other cases.

The disputes which would arise from the adoption of so variable a criterion, may, however, be prevented by the power of adjustment in each case involved in the subsequent authority given to the overseers to make a deduction, to the extent of one-half of the gross rent.

Although one of the supposed objects of the enactment was to secure a composition for rates, payable whether the property be occupied or not, and although this is the understanding generally acted on, it would nevertheless appear that *when the property is not let*, there is no basis left for the assessment, and the rateability of the property seems to cease in the same manner as in other cases when property is unoccupied.

making a reasonable deduction from such rent,
not exceeding in any case one-half of the same.
59 *Geo.* 3, *c.* 12, *s.* 19.

b. And for the purpose of rating such 'owners' instead of occupiers,
EVERY PERSON receiving or claiming the rent of any such house, apartment, or dwelling for his own use,
or receiving the same for the use of any corporation aggregate,
or for the use of any landlord or lessor, who is a minor or under coverture, or insane;
or for the use of any person not usually resident within 20 miles from the parish in which such house, apartment or dwelling is situated,
shall
be deemed and taken to be the 'owner' thereof.
59 *Geo.* 3, *s.* 12, *c* 19.

Persons rated as 'owners' are entitled to be present, and vote at vestries or meetings of the inhabitants for the execution of the laws for the relief of the poor, in like manner as inhabitants (rate-payers) of the parish.

c. But NOTHING IN THIS ACT contained
shall
be construed to give any power or authority
to assess the 'owner,'
not being the occupier, of any house, apartment, or dwelling,
in any city, borough, or town corporate, in which the right of voting, in the election of members to serve in parliament, depends upon the assessment of the voter to the poor's rate,

Poor's Rate.

PERSONS LIABLE TO THE RATE.

2. *Individual Persons.*—Substituted Liabilities—*continued.*

or to vary and affect the manner of assessing and charging any of the inhabitants or occupiers of houses, lands, or tenements within any such city, borough, or town corporate.

59 *Geo.* 3, *c.* 12, *s.* 23.

See (76 *b*,) for a further limitation of the power to rate landlords in boroughs, &c., under the Act to regulate municipal corporations.

85 All rates and charges to which any rent-charge payable instead of tithes is liable

shall

be assessed upon the occupier of the land out of which the rent-charge issues.

6 & 7 *Wm.* 4, *c.* 71, *s.* 70

See provisions for reimbursement of the occupiers (234).

86 All rates and charges to which any rent-charge payable in lieu of tithes is liable,

may

be assessed upon the owner of the rent-charge.

1 *Vic.*, *c.* 69, *s.* 8.

This appears to be merely an alternative, and does not in terms supersede the powers given by the 6 & 7 *Wm.* 4, *c.* 71, *s.* 70, to rate the occupier. See (85, 235).

3. *General Exemptions of Persons.*

87 "No Man

"*can*

"be rated

"by the 43 *Eliz.*, *c.* 2, *s.* 1,

"except as an occupier,

(or as a resident inhabitant (73)

or as a parson or vicar (74).)

R. v. *Gardner*, 1 *Bott.*, 167.

R. v. *North Curry*, 1 *Bott.*, 111.

Thus *lands*, houses, and other property (38 to 43), the subjects of occupation, are not rateable unless an occupier can be found;

nor can *personal property*, though all the other conditions of rateability attach to it (35, 36, 37), be rated unless a resident inhabitant of the 'parish' be found in possession of it.

These are exemptions dependent on the absence of one of the *personal characters* of inhabitant (73), parson, or vicar (74), or occupier (76), by virtue of which alone a person can be rated.

The exemptions of property dependent on the *character of the property* itself have been described (35, 36, 37).

There remains another class of exemptions, where the character of inhabitant or occupier exists, and where the property has the qualities of locality, visibility, and productiveness; but where the inhabitant or occupier is privileged from taxation. Thus:

91 The king is not liable to be rated towards the relief of the poor.

This exemption has not been established by Act of Parliament, nor by

PERSONS LIABLE TO THE RATE.

3. *General Exemptions of Persons*—continued.

judicial decision, but is described by text-writers, and admitted in practice. By one writer, the benefit of the exemption is extended to members of the royal family, *Theobald, P. L.*, p. 117. A general rule is laid down for the construction of statutes—that the king is only affected by statutes when expressly named in them. It is probably on this that the exemption in question is founded, *Halford* v. *Copeland*, 1 *Bos. & Pul.*, 139; but this would extend the exemption to the members of the royal family not parts of the king's household.

This exemption appears to be a *personal* one, extending to all the property immediately occupied by the king or for his use. It is certainly not an exemption of the *property* itself; for the same property, when productive, in the occupation of a private person, as a servant or officer, or a tenant, is rateable (37), *R.* v. *Matthews*, 1 *Bott.*, 170. Nor is it an exemption founded on the dedication of the property to a *public use*, and the consequent want of a *private* profit (37), inasmuch as whether the property be occupied for the exercise of the public functions of the crown, or be enjoyed by the king in his private personal character merely, it appears equally admitted to be exempt.

There does not appear to be any other personal exemption recognized. All other exemptions are founded on circumstances affecting the property itself (87).

VALUATION OF RATEABLE PROPERTY.

Estimate of Rateable value.

95 THE TAX
shall
be gathered out of the 'parish'
according to the ability of the same parish.
43 *Eliz., c.* 2, *s.* 1.

Description of ability.

The *ability* was of course the ability of the persons mentioned in the statute as liable to the tax (73 to 76), and these persons were only liable in respect of such ability as was derived from the kinds of property made liable expressly (38 to 43), or made liable by implication (55 to 59).

Measure of ability.

This ability was measured by the amount of *net annual* profit derivable from the rateable property.

In the case of *lands, houses, coal-mines, and saleable underwoods*, this net annual profit was settled to be the annual rent which would remain to the landlord letting the property for a yearly rent, after provision made for all repairs and outgoings necessary to maintain, renew, or reproduce the property, and after payment of all rates and taxes, *R.* v. *Trustees of the Duke of Bridgewater*, 9 *B. & C.*, 68; *R.* v. *Lower Mitton*, 9 *B. & C.*, 810.

In the case of *tithes*, whether those of the parson or vicar (56), or tithes impropriate (40), or propriation of tithes (41), the net annual profit was settled at the value of the tithe received, deduction being made of the rates and taxes to which it was subject, and of ecclesiastical dues, *R.* v. *Joddrell*, 1 *B. & Ad.*, 403.

In the case of other property rateable by implication (55 to 59), no certain test of value has been laid down; but the ability of an inhabitant in respect of *stock in trade* was held to consist of such profit as remained to him, after providing for the maintenance of himself and family, and payment of all his debts, *R.* v. *White*, 1 *Bott.*, 199.

Scale of rating.

The net annual value of each kind of property being supposed to be

POOR'S RATE.

VALUATION OF RATEABLE PROPERTY.

Estimate of Rateable value—continued.

ascertained, it was considered lawful to make the rate upon any aliquot part, as, for instance, one-half or two-thirds, provided that the same proportion was observed throughout the parish.

It was even determined that one proportion might be applied to one kind of property and another proportion to another, as three-fourths to land, and one-half to houses, *R.* v. *Brograve*, 1 *Bott.*, 125. Some of these proportions were excessively arbitrary, especially as regarded *personal* property, &c. See cases, 1 *Bott.*, 126, 127, 128, 129.

It became at last an universal practice to rate all property at less than its value, chiefly with a view to reduce the entire assessment of the parish, and by this means to escape from a full contribution to the county rates, which ought to be laid on each parish in the county in proportion to the aggregate value of the rateable property within it.

A great amount of injustice and litigation was the result of these practices; and the statute 6 & 7 *Wm.* 4, *c.* 96 (*infra*, *b.* and 96, 97), was at length passed, with the intention, as announced in its preamble, of declaring and enforcing '*one uniform mode of rating for the relief of the poor* throughout *England and Wales.*'

a. Where 'owners,' being lessors of the actual occupiers of any houses, apartments, or dwellings,

are assessed to the rate for the relief of the poor, instead of such actual occupiers (83),

THE 'OVERSEERS'

shall

assess such 'owners,'

by a fair and equal pound rate,

according to the actual rent at which such house, apartment, or dwelling is let,

This provision makes the valuation to the rate depend upon the very fluctuating and often undiscoverable amount of the *actual rent*, instead of the *reasonable average rent*. This criterion, however, seems to be preserved by the proviso in the first section of the 6 & 7 *Wm.* 4, *c.* 96. *See* (97).

This anomaly is, however, the less material, as the authority given to overseers to allow a large deduction to the 'owner' tends to buy off disputes and litigation.

after making a reasonable deduction from such rent,

not exceeding in any case one-half of the same.

59 *Geo.* 3, *c.* 12, *s.* 19.

b. EVERY RATE FOR THE RELIEF OF THE POOR in England and Wales

This Act being *confined to poor's rates*, leaves the law referred to in the remarks on the first paragraph (95) in force as to all other local rates not paid out of the poor's rates.

shall

be made upon an estimate of the net annual value of the several hereditaments (in respect of which persons are liable to be) rated thereto.

The Act only provides a rule for estimating the net annual value of *hereditaments*. The valuation of personal property, which still continued rateable as before, *R.* v. *Lumsdaine*, 2 *P.* & *D.*, 219, was left subject to the difficulties referred to in the remarks on the first paragraph (95).

that is to say (upon an estimate), of the rent at which the same might reasonably be expected to let from year to year,

free of all usual tenants' rates and taxes, and tithe-commutation rent charge, if any,

VALUATION OF RATEABLE PROPERTY

Estimate of Rateable value—continued.

and deducting therefrom the probable annual cost of the repairs, insurance, and other expenses (if any) necessary to maintain them in a state to command such rent.

6 & 7 *Wm.* 4, *c.* 96, *s.* 1.

The operation of this provision was deferred by the Act until the Poor Law Commissioners had issued an order to bring the provision into effect; that order having been issued, the Act is now in full operation.

What is the net annual value.

The definition given by this Act of *net annual value* involves more difficulties than the term itself which it affects to define; and upon the most favourable construction, changes, without any reason, and as is believed without any intention to do so, what is otherwise the very plain and intelligible meaning of the words 'net annual value.'

The net annual value of a hereditament, without this definition, would be readily understood to be the annual value which would remain at the disposal of the absolute owner, after every kind of outgoing in cultivation, repairs, renovation, and taxation, had been provided for. It had already, and in the case of corporeal hereditaments with good reason, been admitted in practice, that this value was identical with *the fair yearly rent which a tenant would pay for the use of the hereditament, he providing for its maintenance, repair, and renovation, and paying all the rates, taxes, and public charges imposed in respect of it.*

It is believed that the definition in the 6 & 7 *Wm.* 4, *c.* 96, *s.* 1, was intended to do no more than declare this to be the universal rule for valuing property to the poor's rate; and in this belief, and governing the interpretation of the definition by the obvious sense of the terms defined, a construction has been given to the Act in practice which very nearly reconciles the definition to the ordinary sense of the term *net annual value.*

'Net annual value,' on the construction of the Act.

The chief difficulty in the statutory definition is found in the words 'free of all usual tenants' rates, and taxes, and tithe-commutation rent-charge.' The most obvious connection of these words would be with the word 'hereditaments,' and the effect of this would be, that *the hereditaments* should be supposed to be *let free of all rates, taxes, tithes,* &c. The clear consequence, however, of this would be, that the estimated rent upon which the rate should be laid would be a *gross rent*, out of which the landlord would have to pay the rates, taxes, tithes, &c. But as such a construction is obviously repugnant, and contradictory to the meaning of the term *net annual value*, and would in its effect cause the hereditament to be rated, not for the private profit, constituting the ability of the tax-payer, but on the amount of taxes and tithes, which are burdens diminishing his ability, and would thus cause the value of the tithes to be rated twice over, namely, once on the value of the land, and again as tithes; and as all these effects would be as contrary to the pre-established principle of rating as to the known and obvious intention of the Act, another and a more consistent construction has been sought for, and is, as is believed, now universally adopted in practice.

This consists in connecting the words 'free of all usual tenants' rates, and taxes, and tithes,' &c., with the word 'rent,' as if the sentence ran thus,—'*the rent free of rates, taxes,*' &c. Such a rent would be to this extent, *a net rent.*

This difficulty being got over, there still remains defects in the definition, which prevent the estimate from being made on the true net annual value. The first of these defects consists in the requiring the estimate to be made on the assumption that the hereditament is 'let from year to year,' a mode of letting in respect of land which would diminish the rent greatly below its true and fair average amount. What it was desirable to assume for the purpose of rating was, that the estimated rent should be an average yearly rent. Connected apparently with this condition of a letting from year to year, is the assumption in the definition that the tenant provides none of

POOR'S RATE.

VALUATION OF RATEABLE PROPERTY.

Estimate of Rateable value—continued.

the repairs, the amount of which was therefore to be deducted from the rent received from him. A further defect in the definition preventing the estimate from being made on the true net annual value, is involved in the words 'free of all usual *tenants*' rates and taxes.' It is obvious that the taxes imposed on the *landlord* in respect of his rent, just as much diminish the net rent, and diminish the ability to pay this and other rates, as the taxes collected from the tenant, and that these landlords' taxes ought to be deducted from the gross rent in order to arrive at a net rent. This, however, cannot be done under the terms of the statutory definition.

The results of these constructions are, that the rate is in fact made on an estimated sum, which is neither a gross rent nor a net rent, but is *such a reasonable rent as a tenant from year to year, paying the usual tenants', but not the landlords', rates and taxes, and tithe-commutation rent-charge (if any), and providing for the repairs and restoration of the hereditament, would pay for the use of the hereditament.*

96 If any rate be made
not upon such estimate of the net annual value, (95 *b.*)
IT *shall not*
be allowed by any justices;

The allowance of a rate by justices was before this statute a *ministerial Act*, that is to say, an Act which they were bound to perform without judicial examination; and on a rate being produced to them in proper form by overseers for allowance, they were bound to allow it, whatever material defects were involved in it. These defects were left to be cured, if parties objected, by appeal: a costly, troublesome, and uncertain remedy to those who had sufficient inducement or resolution to resort to it, and a remedy not applicable to the case where all the rate-payers were under-rated for the purpose of enabling the whole parish to evade its fair contribution to the burdens of the county, hundred, or borough, or other general assessment made on the basis of the assessment to the poor's rate.

The justices are now bound to satisfy themselves that the rate is made on the estimate prescribed by the Act; but it is to be regretted that in practice this duty is almost universally neglected. This neglect is partly caused by a misapprehension prevailing concerning the effect of the decision in *R.* v. *Fordham*, 9 *L. J.* (*n. s.*) *M. C.* 3, which applies only to the succeeding section in the Act, relating to the form of the rate (132), and not at all to the present provision.

Or, if allowed,
IT *shall not*
be of any force.

6 & 7 *Wm.* 4, *c.* 96, *s.* 1.

The effect of this is to prevent the necessity of an appeal when the rate is not made on the estimate prescribed by the Act. In such a case the rate may be treated by all persons as a nullity, and any distress to enforce it will make the parties distraining, trespassers.

97 But NOTHING HEREIN CONTAINED
shall
be construed
to alter or affect
the principles,
or different relative liabilities, if any,
according to which different kinds of hereditaments are now by law rateable.

6 & 7 *Wm.* 4, *c.* 96, *s.* 1.

The case of *R.* v. *Joddrell*, 1 *B.* & *Ad.*, 403, had been supposed to establish

VALUATION OF RATEABLE PROPERTY.

***Estimate of Rateable value*—continued.**

a different principle of rating, or a different relative liability in favour of tithe, as against other rateable property; and if any such different principle, or different relative liability had existed, the present provision would have secured the benefit of its continuance to the tithe-owner. But the existence of such difference of principle, or of relative liability in favour of tithe has been negatived by the decision in the case of *R.* v. *Capel*, decided in Trinity term, 1840, and the liability of tithe to be rated on the net annual value determined by the statutory definition (95, *b.*), is established.

But there are many instances in which different *principles* of rating, and different *relative liabilities* have been created by local Acts of parliament, under the provisions of which advantages have been abandoned, and great sacrifices made by parties in favour of the other rate payers on condition of receiving some benefit stipulated for and expressly provided by the Acts. If this benefit had been taken from such parties by the general words of the definition, there would have been a breach of a fair and solemn understanding, and the Act would have operated as a parliamentary confiscation of so much of the value of the property before entitled to the benefit.

In many cases particular properties are wholly exempted by Act of parliament;

as the improvements made on that condition upon the lands embanked from the

Thames near Blackfriars' Bridge under the 7 *Geo.* 3, *c.* 37;

as Stonehouse Bridge, 7 *Geo.* 3, *c.* 73;

as the compensation made to the vicar of St. Michael's, Coventry, for his tithes, offerings, &c., surrendered on this condition.

In other cases the value is fixed permanently at that which the property was worth before the improvement,

as in numerous csaes of canals (*e. g. Leeds and Liverpool*, 10 *Geo.* 3), lunatic asylems, (*infra*, —*a*,) gaols, &c.

In other cases the improved property is only to be rated in like manner as adjacent lands.

Sometimes a scale of annual increase of value is fixed by Act of parliament,

as in the London Dock Act, 39 & 40 *Geo.* 3, *c.* 47.

By many Acts for enclosure, drainage, improvements, commutation o tithes, &c., other scales of value determined by the price of corn or in other ways, are prescribed either for the whole of the improved property, or for particular portions.

In all these cases the arrangements sanctioned by the Local Act of parliament appear to be protected by the present provision.

Another class of cases to which this provision appears to apply is, that of owners of property compounding to pay rates instead of the occupiers, under the 59 *Geo.* 3, *c.* 12, *s.* 19, and under many local Acts. See (83, 95 *b.*)

a. No LAND or ground purchased under the provisions of this or any former Act, for the purposes of any county lunatic asylum,
nor any buildings erected thereon,
shall
be assessed
to any rates, taxes, or levies made for any parish or place in which such land or ground is situate
at a higher value, or more improved rent
than the same land or ground was at the time of such purchase.
9 *Geo.* 4, *c.* 40, *s.* 29.

Surveys and Valuations in Parishes.

The duty of making a valuation of the rateable property of a parish is clearly one of great difficulty and of great labour also, where the parish is large, or the divisions of property numerous. This duty was imposed on

Poor's Rate.

VALUATION OF RATEABLE PROPERTY.

Surveys and Valuations in Parishes—continued.

the annual unpaid overseers,—and it was not lawful for them to expend the poor's rates in procuring professional or other assistance, *R.* v. *Gwyer*, 2 *A. & E.*, 216. The effect of this was, that the expenditure in litigating appeals greatly exceeded the amount which would have been sufficient to obtain trustworthy professional valuations. At length the following provisions were made for obtaining and paying for surveys and valuations in parishes (99 to 101). The provisions for obtaining and paying for surveys and valuations in unions for rating (102, 103), had been already enacted in 1834, but had not, and have not yet, come into operation, because unions for rating have not yet been formed, except only in one instance of a very small union.

99 Whenever it is made to appear to the Poor Law Commissioners,
by representation in writing from the Board of Guardians of any Union or 'parish,' under their common seal,
or from the majority of the 'overseers' or other officers competent to the making and levying the rate,

It may be presumed that where, as is often the case under local Acts, there are separate officers for the making and for the levying of the rates, both sets of officers need not join; but that it will be sufficient if those who have the *making* of the rate, and who are alone concerned in executing the valuation of the rateable property, make the application to the Poor Law Commissioners.

that a fair and correct estimate for the aforesaid purposes (95 *b.*) cannot be made without a new valuation,
THE POOR LAW COMMISSIONERS
may,
where they see fit,
order a survey,
with or without a map or plan,
on such scale as they think fit,
to be made and taken of the messuages, lands, and other hereditaments, in respect of which persons are liable to be rated to the poor's rate
in such parish,
or in all or any one or more parishes of such a union;
and *may*
(order) a valuation to be made of the said messuages, lands, and other hereditaments,
according to their annual value,
and *may*
direct such guardians

The power to apply to the Commissioners for a valuation or survey is given equally to guardians, and to overseers or other officers competent to make the rate.

But the power to appoint a surveyor or valuer, and to make a provision for payment of the expenses, is only given to guardians.

If overseers or similar officers cannot appoint the surveyor or valuer, and cannot pay the expenses of the survey and valuation, the benefit of the provision will obviously be confined to those places in which the administration of the law is in the hands of guardians.

to appoint a fit person or persons for making and taking every such survey, map or plan, and valuation,

VALUATION OF RATEABLE PROPERTY.

Surveys and Valuations in Parishes—continued.

and to make provision for paying the cost of every such survey, map or plan, and valuation,
either by a separate rate

If the guardians make provision for payment by a separate rate, it is still questionable whether they are to make and collect this rate, or whether it is to be made and collected by the persons making and collecting the poor's rate, and in the same manner as poor's rate.

or by a charge on the poor's rate
as they may see fit.

6 & 7 *Wm.* 4, *c.* 96, *s.* 3.

Qy. Are the commissioners or the guardians invested with this option?

100 In case such charge on the poor's rate (99) be made,
THE GUARDIANS
shall
make provision for paying off not less than one-fifth of the sum charged on the rates,
and such interest as will from time to time be payable in respect of such charge or any part thereof,
in each succeeding year,
till the whole is repaid.

6 & 7 *Wm.* 4, *c.* 96, *s.* 3.

101 For the purpose of making every such survey, map or plan, and (or) valuation,
THE PERSON or persons appointed for making the same respectively,
together with their and every of their assistants and servants,
may
at all reasonable times until the same respectively is completed,
enter, view, and examine,
survey and admeasure
all and every part of the messuages, lands, and other hereditaments aforesaid (99),
and *may*
do or cause to be done any act or thing necessary for making such survey, map or plan, and (or) valuation.

6 & 7 *Wm.* 4, *c.* 96, *s.* 4.

a. If any map, survey, plan, or valuation made previously to the appointment of such person or persons be tendered to him or them,
and be in his or their judgment, and to his or their satisfaction a just and true map or survey (or valuation), proper for the purposes aforesaid (99),
HE or THEY
may
use the same for such purposes.

6 & 7 *Wm.* 4. *c.* 96, *s.* 4.

Surveys and Valuations in Unions for Rating.

102 In every union for rating
THE GUARDIANS
shall
under such regulations as the Poor Law Commissioners may in that respect prescribe,

Poor's Rate.

VALUATION OF RATEABLE PROPERTY-]

Surveys and Valuations in Unions for Rating—continued.

ascertain and assess the value of the property rateable to the relief of the poor, in the several parishes of the union,
and *shall*
cause to be made such surveys and valuations of the said property, or any part thereof,
as may be necessary from time to time for making a fair and just assessment upon the united parishes.
4 & 5 *Wm.* 4, *c.* 76, *s.* 35.

103 And THE EXPENSE of every such valuation (102)
shall,
at all times,
be a charge on the common rates of such parishes.
4 & 5 *Wm.* 4, *c.* 76, *s.* 36.

AMOUNT OF RATE.

114 Such competent sum and sums of money according to the ability of the 'parish'
as the 'overseers,' or the greater part of them,
by and with the consent of two or more 'justices,'
may think fit.
43 *Eliz.*, *c.* 2, *s.* 1.

Overseers determine the amount.

The amount of rate is thus left entirely to the determination of the overseers and justices. But as the duty of the justices was held to be ministerial, *R.* v. *Dorchester*, 1 *Stra.*, 393; *R.* v. *Uttoxeter*, 1 *Bott.*, 83, the matter was practically left entirely to the discretion of the overseers. The concurrence of the parishioners to the making of the rate is wholly unnecessary, *Tawney's case*, 2 *Lord Raym.*, 1009.

Limits of Amount.

The overseers are to raise the rates 'weekly or otherwise.' As they may make these rates of any amount which is necessary, and as often as they have occasion, the total amount of rates to be raised within a year appears to have no direct legal limit. But although the *total amount* thus to be raised is subject to no legal limit, there is a legal limit to the amount to be raised by each single rate—and a natural limit to the amount which can be raised by several successive rates.

First, as to *the amount which may lawfully be raised by any one rate.* This it is determined ought not to be so large as would suffice for the whole year, *Bishopsgate* v. *Beecher*, 1 *Bott.*, 92; but it is good if made for six months, *Durrant* v. *Boys*, 1 *Bott.*, 95. Thus the extreme limit in amount is the sum calculated to be sufficient for six months, or for some time between six months and twelve. Added to this there is an indirect legal limit dependent on the purposes to which it is lawful to apply the rate. The rates when raised can by law only be applied to the purposes to which the law has authorized its application, and the expenditure of the rate is thus limited in amount to that sum, which is sufficient for the legal purposes of the rate (28). If the overseers raise more than sufficient for these purposes, they will have moneys in hand, and no new rate will be necessary. In this case it would appear that the justices are not compellable to allow a rate presented to them by overseers for allowance—for in order to procure a mandamus to compel them, affidavits must be filed showing that the rate is necessary. This limitation however can only have effect when

AMOUNT OF RATE—*continued.*]

the justices may know that the rate is unnecessary, and are willing to withhold their allowance. When they concur with the overseers, the latter may raise rates to any amount beyond what is necessary. It is said, but it appears to be a questionable doctrine, that if a rate be of such a large amount as to prejudice a removing tenant, it may be appealed against on that ground. *Durrant* v. *Boys*, 1 *Bott.*, 95. If this doctrine were correct, it would obviously be no protection to those who were not about to remove.

Secondly, there remains only *the natural limit*, consisting of the exhaustion of the fund out of which the rate is to be raised, the 'ability' of the rate-payers, a limit which has in some cases been practically reached. In these cases property has been thrown out of cultivation and occupation, and the power to make a rate was at an end: some such instances are described in the Report of the Poor Law Commissioners of Inquiry, 1834. 8vo. Edit., pp. 63 to 67.

The reaching this limit does not imply the total exhaustion of the property of the parish, but only the consumption of the net value or rental of such property as is rateable. The rate is to be laid on the rental remaining after deduction of rates, &c. It is obvious, therefore, when the rates have reduced the rent to nothing, there is nothing left to rate. As only some kinds of property are rateable, and as even the whole rental of all the property in a parish might be consumed with no more diminution of the prosperity of a parish than when the rental is expended elsewhere; and as the distribution of the net rental in poor's rate is indeed a means of retaining and expending the rental, within the parish, such a result as the exhaustion of the rental by poor's rate has been found in some cases not inconsistent with the continued prosperity of many classes of the inhabitants of a parish. When the parish chiefly consists of mines, timber, and plantation not rateable, the whole rent of the rateable property may easily be exhausted in the relief of the population, the only sufferers being the landlords of the rateable lands and houses.

This effect of the rate in exhausting rent, without affecting the profits of occupiers, was, before the passing of the Poor Law Amendment Act, generally well understood by farmers and vestries in the South of England, who for the most part showed no reluctance to increase the rates which they knew fell on those who were entitled to the net rent of land, such as landlords, tithe-owners, &c.:—See the Report of the Select Committee of the House of Commons on Agriculture, 1833. It was to counteract the interest which occupiers often have to cast the maintenance of their labourers and dependents on the rates, that is to say, upon the net rental of the land, that the Poor Law Amendment Act gave votes in the election of guardians to the owners of property as well as to the immediate payers of the rates. The statute of Elizabeth anticipates the occasional exhaustion of the ability of the parish by providing for a rate in aid (119 *a. b.*).

PERIODS AT AND FOR WHICH RATES ARE TO BE MADE.

116 Weekly or otherwise,
as to the 'overseers' shall seem convenient.
43 *Eliz.*, *c.* 2, *s.* 1.

Rates must be prospective.

It is a principle applicable to almost all rates that they are to be made prospectively, and that they cannot be made in one year to defray charges incurred in a preceding year, for the benefit of preceding rate-payers, *Tawney's case*, 2 *Salk.*, 531; *R.* v. *Goodcheap*, 1 *Bott.*, 115.

An overseer is under no obligation to lay out his own money; but if he do so, he may repay himself out of any rate made by him in the same year; and he may be repaid by his successors, if he transfer to them a rate made in his own time, or a balance sufficient to repay himself, and to defray all claims against the rate accruing in his time, 17 *Geo.* 2, *c.* 38, *s.* 11; *R.* v. *Tawney*, 2 *Salk.*, 531; *R.* v. *St. Peter's*, *Fol.* 22.

POOR'S RATE.

PERIODS AT AND FOR WHICH RATES ARE TO BE MADE—*continued.*

The same principle would support the converse rule, that rates should not be made so large in amount as to charge the present rate-payers for the benefit of succeeding rate-payers.

Periods for making rates.

As the number of rate-payers increased and the other duties of the officers became more numerous and pressing, and the increase of the amount rendered it more necessary that the rates should be accurately adjusted to the respective liabilities of the contributors, it became impossible to incur *weekly* the labour of making a rate and collecting it.

In the early cases, a *month* was considered a proper period to be provided for by a single rate, and a rate for a quarter of a year was considered unreasonable, because a man could not remove in the middle of a quarter without risk of being twice charged, *Tracy* v. *Talbot*, 1 *Bott.*, 90; *R.* v. *Littleport*, *ib.* 91.

But after the provision was made for dividing the rate between outgoing and incoming tenants (117), the reason assigned for the limit of a month was removed, and it was abandoned in *R.* v. *St. George's*, 1 *Bott.*, 94. Subsequently a rate for *six months* was held to be good, *Durrant*, v. *Boys*, 1 *Bott.*, 95. In this case it is asked by Lord Kenyon, "why, if it is lawful to make "a rate for two or three months, it should not be lawful to make one for six "months?" The same question might be extended,—why should not a rate be made for ten or eleven months, or any time not exceeding the year of office of the overseers? It is probable that since the provisions have been made for dividing the rate between incoming and outgoing tenants, the decision in *Bishopsgate* v. *Peachem*, 1 *Bott.*, 92, in which it was held that a rate *for a year* was bad, would, like the decisions of the same period against *quarterly* rates, not be supported.

117 If any person come into or occupy any house, land, tenement, or hereditament, or other premises

The words 'come into or occupy' seem to denote *corporeal* property and *real* property. Tithes impropriate (40) and propriations of tithes (41) are held to be subjects of *occupation* for the purpose of the poor laws, by virtue of the words of the statute of Eliz. (76), and therefore a transfer of these between the making of two rates would appear to entitle the persons respectively ceasing and beginning to *occupy*, to the benefit of this provision.

But tithes generally are not the subject of occupancy. And the parson and vicar are not rated as *occupiers* of tithe (56, 75). It is therefore a question whether the tithes of a parson or vicar come within the present provision, so as to extend the benefit to him.

The terms appear likewise to exclude inhabitants rated for stock in trade (59, 74) from the benefit of the provision.

It is reasonable to suppose, however, that it was not distinctly intended to deprive the two latter classes of rate-payers of the benefit of the statute.

out of or from which any other person assessed is removed; or which at the time of making any rate was empty or unoccupied,

EVERY PERSON so removing from,

and every person so coming into, or occupying the same respectively,

shall

be liable to pay such rate in proportion to the time that such person occupied the same respectively,

in the same manner

and under the like penalty of distress

as if the person so removing had not removed;

or such person so coming in or occupying had been originally rated and assessed in such rate.

17 *Geo.* 2. *c.* 38, *s.* 12.

PERIODS AT AND FOR WHICH RATES ARE TO BE MADE—*continued.*

a. In case of a dispute,'
THE SAID PROPORTION
shall
be ascertained by any two or more 'justices.'
17 *Geo.* 2, *c.* 38, *s.* 12.

DISTRICTS IN WHICH RATES ARE TO BE MADE.

Independent Districts.

119 Tax to be gathered out of the 'parish' (the poor of which are to be relieved).

43 *Eliz.*, *c.* 2, *s.* 1.
13 & 14 *Car.* 2, *c.* 13, *ss.* 21, 22.

See the definition of 'parish,' (11) with which townships and villages are identified by the 13 & 14 *Car.* 2, *cap.* 12, *ss.* 21, 22.

Division of large parishes into townships, &c.

The townships and villages to which the statute of Charles II. relates were before subject to the tax as parts of parishes. But these parishes being too large for management by overseers, were by the statute allowed to be divided for the relief of the poor, the several townships in each such parish being required to maintain their poor in the same manner as whole parishes.

No township therefore can separate itself under this statute of Charles, if the parish be not otherwise too large to enable the township to reap the benefit of the Act of Elizabeth. *Hilton* v. *Powle*, *Cro.*, *Car.*, 92; *Nicholas*, v. *Walker*, *ib.* 394.

Extension to extra-parochial townships, &c.

The terms of the statute of Charles II. relate only to the dividing large parishes into their constituent townships and villages, and certainly were intended to modify the mode of relief in parishes, which *as parishes* had been liable to maintain their poor under the statute of Elizabeth, but had been found too large for management by overseers; and as certainly those terms were not intended to extend the liability to places, which being *extra-parochial*, had not before been liable *as parishes* or *parts of parishes* to maintain their poor. In short it is clear that the statute of Charles only had regard to townships and villages which were *parts of parishes*.

Nevertheless it has been held that any place which is a township or village, although it is extra-parochial, and was not liable as part of a parish to maintain the poor under the statute of Elizabeth, is rendered liable to have overseers appointed, and to maintain its poor under the statute of Charles. *R.* v. *Rafford*, 1 *Stra*, 512; *R.* v. *Denham*, 1 *Bott.*, 48.

Therefore all parishes and all places, which were reputed townships and villages, at least as early as 1662 (the year of the passing of the 13 & 14 *Car.* 2), are now liable to maintain their poor.

What is a township, or vill, 'Parish.'

What is a township or village, it is difficult to settle. Wherever there is a constable, there is a *township*. *R.* v. *Horton*, 1 *Bott.*, 61. As to what is not a township, see *R.* v. *Denham*, 1 *Bott.*, 48; *R.* v. *Standard Hill*, 4 *Maule and Selw.*, 378; *R.* v. *Grafton*, 1 *Bott.*, 49; *R.* v. *Showler*, 1 *Bott.*, 53; *R.* v. *Peterborough*, 1 *Bott.*, 59.

A *vill* by reputation is sufficient, *R.* v. *Eyford*, 1 *Bott.*, 60.

A *hamlet* is a *vill*, *R.* v. *Morris*, 1 *Bott.*, 8.

Places exempt.

Places not parishes, and not in the year 1662 reputed townships or villages, are not (unless made expressly liable by Act of parliament) liable to maintain their poor.

POOR'S RATE.

DISTRICTS IN WHICH RATES ARE TO BE MADE.

Independent Districts—continued.

a. If the justices do perceive that the inhabitants (parson or vicar) (75) and occupiers (77) of any 'parish' are not able to levy among themselves sufficient sums of money for the purposes aforesaid (28),

ANY 'TWO JUSTICES'
shall and may
tax, rate, and assess
any other (*qy.* inhabitant?)
of other 'parishes,'
or out of any 'parish'

It is apparently by reliance on these words, '*out of any parish*,' that it has been decided that an *extra-parochial place* may be rated in aid. *R.* v. *Boroughfen*, 1 *Bott.*, 417.

When it is laid on an extra-parochial place, it may be laid *by poll* on each person individually. *R.* v. *Clarendon Park*, 1 *Bott.*, 414.

Or a gross sum may be laid, and the inhabitants may apportion it amongst themselves. *Ib.*

within the hundred

This applies equally to any division equivalent to a hundred, though not called a hundred, as a tithing, liberty, or soke. *R.* v. *Milland*, 1 *Bott.* 418.

where the said parish is,

The justices should tax the *next 'parish'* within the hundred. 1 *Bott.*, 408.

a *vill* may be rated in aid of another *vill* in the same parish. 1 *Bott.*, 415.

But if the case require it, they are to tax the *whole hundred*. *St. Benedict* v. *St. Peter*, 1 *Bott.*, 409.

The justices may charge the whole parish in a certain sum, and leave it to the overseers to assess the rate on the persons to pay. *R.* v. *Eastchurch*, 1 *Bott.*, 410;

or they may charge particular persons. *Ib.*, and *R.* v. *Knightley*, 1 *Bott.*, 399.

to pay such sum and sums of money
to the 'overseers' of the said poor 'parish,'
for the said purposes, as the said 'justices' may think fit.

43 *Eliz. c.* 2, *s.* 2.

b. If the said hundred be not thought, by the said 'justices,' able and fit to relieve the several 'parishes' not able to provide for themselves, as aforesaid,

THE 'JUSTICES,'
or the greater number of them,
at their general quarter sessions,
shall
rate, and assess, as aforesaid,
any other (*qy.* inhabitant?)
of other 'parishes,'
or out of any 'parish'

See above (*a.*).

within the said county,

The justices should tax the *next 'parish'* within the hundred. 1 *Bott.*, 408.

A *vill* may be rated in aid of another *vill* in the same parish. 1 *Bott.*, 415.

But if the case require it, they are to tax the *whole hundred*. *St. Benedict* v. *St. Peter*, 1 *Bott.*, 409.

The justices may charge the whole parish in a certain sum, and leave it to

DISTRICTS IN WHICH RATES ARE TO BE MADE.

Independent Districts—continued.

the overseers to assess the rate on the persons to pay. *R.* v. *Eastchurch*, 1 *Bott.*, 410;
or they may charge particular persons. *Ib.*, and *R.* v. *Knightley*, 1 *Bott.*, 399.
The sessions may rate a parish in aid within the county of a city, although a city has no hundred. *St. Benedict* v. *St. Peter*, 1 *Bott.*, 409.

for the purposes aforesaid (28),
as in their discretion shall seem fit.
43 *Eliz.*, *c.* 2, *s.* 2.

120 Where there is any dispute or uncertainty,
in what 'parish'
lands improved or drained,
lie and ought to be rated,
EVERY OCCUPIER
of such lands,
or houses built thereon,
tenements,
tithes arising therefrom,
mines therein,
and saleable underwoods therein growing,
shall
be rated and assessed
to the relief of the poor,
and to all other parochial rates,
within the 'parish' which lies nearest to such lands,
in like manner and form, and subject to the same directions and regulations as all other lands within such 'parish' are by law liable to be rated and assessed.
17 *Geo.* 2, *c.* 37, *s.* 1.

a. And if, on application to the officers of such 'parish,' to have such improved or drained land rated and assessed,
any dispute or difference arise, touching what 'parish' such land ought to be rated and assessed in,
ANY PERSON interested
may
appeal
to the next general quarter sessions after such application made.
17 *Geo.* 2, *c.* 37, *s.* 1.

b. And if any such person appeal,
and if notice be first given
to the officers of the several 'parishes' abutting upon, and adjoining to such lands,
and to all other persons claiming and interested therein,
THE 'JUSTICES' for the 'county or place' where such lands lie,
may
at their next general quarter sessions after such application made as aforesaid,
hear and determine the same,
on the appeal of such person,

POOR'S RATE.

DISTRICTS IN WHICH RATES ARE TO BE MADE.

Independent Districts—continued.

and cause such lands or hereditaments
to be allotted to such 'parish,'
and fairly and equally assessed therein
as they may see just and meet.
17 *Geo.* 2, *c.* 37, *s.* 1.

C. And SUCH DETERMINATION and allotment
shall
at all times thereafter,
be final and conclusive
to and upon the said several 'parishes'
and to and upon all other persons whatsoever,
as to the 'parish' in which such land and hereditaments are to be rated and assessed to the poor, and all other parochial rates.
And THE SAID LANDS and hereditaments
shall
at all times, after such determination and allotment,
be rated and assessed to the relief of the poor, and to all other parochial rates,
within such 'parish' only
to which they have respectively
been so allotted.
17 *Geo.* 2, *c.* 37, *s.* 1.

121 If there be any question between any 'parishes' touching the boundaries of such 'parishes,'

These provisions also extend to the purpose of defining the boundaries of the properties of private persons, owners of land. Only so much as relates to the determination of the boundaries of parishes is here extracted.

or if such parishes be desirous of having such boundaries ascertained, or a new boundary line defined;
and if a majority of not less than two-thirds in number and value
of the landowners of such parishes
make application in writing;
THE TITHE COMMISSIONERS for England and Wales,
or any of their assistant commissioners,
may
deal with any dispute or question concerning such boundaries,
and *may*
ascertain, adjust, set out, and define the ancient boundaries between such parishes,
or *may*
draw and define a new line of boundary
as they may see fit.
And ALL THE POWERS given to the Tithe Commissioners or assistant commissioners
shall
extend,
and *shall*,

DISTRICTS IN WHICH RATES ARE TO BE MADE.

Independent Districts—continued.

so far as the same may, in the judgment of the commissioners or assistant commissioners, be applicable to such question,
be applied by them thereto.
2 & 3 *Vic., c.* 62, *s.* 34.

a. And EVERY BOUNDARY LINE
so ascertained or newly defined
shall
be duly set out or delineated on a map or plan,
with proper descriptions and references, showing in what respects the variation (if any) has been made,
and *shall*
thenceforward be the boundary line of and between such 'parishes'
for all purposes whatsoever.
2 & 3 *Vic., c.* 62, *s.* 34.

There is a previous provision in the Tithe Commutation Act, 1 *Vic., c.* 69, *s.* 2, for ascertaining the boundaries of lands in any parish or district, but these powers extend only to districts, the tithes of which are to be commuted, and there is no provision for the concurrence of both parishes in the adjudication; those provisions, therefore, are not likely to be resorted to in the case of parochial boundaries, although they remain unrepealed.

b. THE TITHE COMMISSIONERS or their assistant commissioner
shall,
within one month after ascertaining and setting out the boundaries,
publish the same
by causing a description thereof in writing to be delivered to, or left at the place of abode
of one of the 'overseers' of the 'parish' or district of which the boundary is so set out,
and of (one of the overseers of) every parish or district thereunto adjoining,
and also of every landowner or his agent through, or abutting upon, whose lands the boundary so set out may pass.
1 *Vic., c.* 69, *s.* 2.

It would seem that this duty of publication applies to the subsequent powers given by the 2 & 3 *Vic., c.* 62. *s.* 34. otherwise there will be no remedy for any error committed under the latter provisions.

c. THE SAID TITHE COMMISSIONERS,
or such assistant tithe commissioner,
may
order and direct
that all reasonable costs, charges, and expenses
incurred by any parties interested in or about any such inquiry into any such boundary,
be borne and paid
in such proportion and manner as the said commissioners or assistant commissioner may direct
by and amongst the several other parties interested therein,
as well those who signed the request to the said commissioners that they should inquire into and settle the said boundary,
as every other person interested who either personally, or by counsel, attor-

POOR'S RATE.

DISTRICTS IN WHICH RATES ARE TO BE MADE

Independent Districts—continued.

ney, or agent, has appeared upon such inquiry before the said commissioners or assistant commissioner.

And SUCH COSTS, charges, and expenses, and every part thereof,
shall
be recovered in like manner as expenses, or the shares thereof, to be borne by any person, are recoverable by the recited Acts or this Act.
2 & 3 *Vic.*, *c.* 62, *s.* 36.

d. Where any person interested in the determination of the said tithe commissioners or assistant commissioners, respecting such boundaries, is dissatisfied with such determination,
if such person, within six months of the publication of such boundaries, give eight days' notice to the said commissioners
of his intention to move the court of Queen's Bench to remove the said determination into the said court by certiorari;
SUCH PERSON
may,
within the said term of six calendar months, but not afterwards,
move the said Court of Queen's Bench to remove the said determination into the said court by certiorari.
1 *Vic.*, *c.* 69, *s.* 3.

And if such person enter into a recognizance
before one of the justices of the said court
in the sum of 50*l.*,
with condition to prosecute the same without delay,
and (conditioned in case the determination of the commissioners be confirmed) to pay, within one calendar month after such confirmation, to the said commissioners their full costs and charges, to be taxed according to the custom of the court;
THE SAID COURT
may
allow such certiorari.
1 *Vic.* *c.* 69, *s.* 3.

e. And if the said court think fit,
THE COURT
may
direct the trial of one or more feigned issues upon such points as the court may think fit, and direct who shall be plaintiff or plaintiffs, and who shall be defendant or defendants on such trial;
or *may*
determine the same (*qy.* the feigned issues or the general questions?) in a summary manner;
or *may*
otherwise dispose of the question or questions in dispute,
and *may*
make such rules and orders therein as to costs, and all other matters as may appear to be just and reasonable.
2 & 3 *Vic.*, *c.* 62, *s.* 35.

DISTRICTS IN WHICH RATES ARE TO BE MADE.

Independent Districts—continued.

f. And THE DECISION of the said court therein,
as to the boundaries of such parish,
shall
be final and conclusive for all purposes whatsoever.
2 & 3 *Vic.*, *c.* 62, *s.* 35.

g. After the expiration of the said term of six calendar months (*d.*),
THE JUDGMENT of the said tithe commissioners or assistant commissioners
shall not
be removed or removable
by certiorari, or any writ or process whatsoever,
into any of Her Majesty's Courts of Record at Westminster
or elsewhere.
1 *Vic.*, *c.* 69, *s.* 3.

122 If there be any question touching the boundary of any 'parish' or 'place,'
and if two-thirds in number and value of the landowners, of any such parish or place, apply in writing to the said tithe commissioners,
and if the said commissioners think fit to make inquiry on such question of boundary,
and if the said commissioners, or any of their assistant commissioners,
cause notice to be sent by post, or otherwise given,
21 days at least before proceeding to make such inquiry,
addressed to the churchwardens and overseers,
and also to the surveyors of the highways of every 'parish' or 'place' adjoining such boundary,
of the intention of the said commissioners or assistant commissioners, to proceed on the question of such boundary,
and of the time and place of meeting so to proceed therein,
and if the said commissioners or assistant commissioner, annex to each copy of such notice, a copy of the said application of the landowners,
and if the said commissioners, or assistant commissioner, also cause a copy of such notice to be inserted, once at least in two successive weeks previous to the day of meeting, in some newspaper circulating in the county where such parish or place is situated;

This advertisement seems to be rather required for warning to the adjoining parishes than for the parish from which the application has come, and ought rather to be published in the county of the former than of the latter parish

and if, during the interval of such 21 days,
no application be made in writing
addressed to the said commissioners
by two-thirds at least in number and value of the landowners
in any parish or place adjoining such boundary,
not being parties to the aforesaid application,
objecting to the said commissioners or assistant commissioners proceeding in the matter of such boundary;
THE SAID TITHE COMMISSIONERS, or any of their assistant commissioners,
may,
at the sole discretion of the said commissioners,
and only in such manner as they shall think fit and proper,

Poor's Rate.

DISTRICTS IN WHICH RATES ARE TO BE MADE.

Independent Districts—continued.

exercise all and any of the powers given to them by the Acts relating to boundaries or parishes (121),

2 & 3 *Vic., c.* 62, *ss.* 34, 35.

notwithstanding that the landowners in the 'parish' or 'place' adjoining such boundary have not joined in such application.

3 *Vic., c.* 15, *s.* 28.

a. But NO ASSISTANT COMMISSIONER
shall
proceed in any such inquiry
without exhibiting at the meeting
the papers containing the advertisement of such notice,
and a certificate under the hands of the said commissioners, or any one or two of them, of one copy of such notice having been respectively sent to such churchwardens and overseers, and one copy to such surveyors as aforesaid.

See the Act, 3 *Vic., c.* 15.

And thereupon
THE ASSISTANT COMMISSIONER
shall
proceed in all respects,
and HIS PROCEEDINGS
shall
be as valid and binding
as if the inquiry had been instituted on the application in writing
of two-thirds in number and value,
as well of the landowners of such 'parish' or 'place' to which such notice has been so sent
as of the parish or place causing the inquiry to be instituted.

3 *Vic., c.* 15, *s.* 28.

Unions for Rating.

125 Where the 'parishes' of any union
are situated within the same 'county,' district, or liberty,
under the jurisdiction of the same 'justices,'
THE GUARDIANS elected by the 'parishes' forming such union,
may,
by any writing under the hands of all such guardians,
and with the approbation of the Poor Law Commissioners,
agree for or (and) on behalf of the respective 'parishes' for which they act as guardians,
that for the purposes of raising in common the necessary funds for the relief of the poor of such union,
such 'parishes' shall be considered one 'parish.'

4 & 5 *Wm.* 4, *c.* 76, *s.* 34.

The agreement signed by the guardians, and signed and sealed by the Commissioners, is to be deposited, one part with the Commissioners, the other part with the clerk of the peace of the county, district, or liberty, who is to file it with the records of the county. After this depositing and filing, the agreement is to be for ever binding on the parishes, and cannot be revoked or annulled. *See the Act, s.* 34.

RATE BOOKS.

131 THE 'OVERSEERS' of every 'parish'
shall
provide a book or books,
and *shall*
take care
that true and just copies of all rates for the relief of the poor
be fairly wrote and entered therein.

17 *Geo.* 2, *c.* 38, *s.* 13.

See the form for such entries (132).

a. And THE 'OVERSEERS,' or one of them,
shall
carefully preserve every such book in some public or other place, in every 'parish,'
whereto all persons assessed,
or liable to be assessed,
may freely resort.

17 *Geo.* 2, *c.* 38, *s.* 13.

b. ALL RATES and assessments
shall
be kept by such persons
and *shall*
be deposited in such place and manner
as the inhabitants of the parish
in vestry assembled
may direct.

58 *Geo.* 3, *c.* 69, *s.* 6.

It may be assumed that the vestry can only give such directions for the custody and deposit of the rate-books as is compatible with the right of inspection given by other preceding and subsequent statutes.

c. And EVERY SUCH BOOK
shall
be delivered over from time to time
to the new and succeeding 'overseers,' as soon as they enter into their office,
to be preserved as aforesaid (131, *a.*)

17 *Geo.* 2, *c.* 38, *s.* 13.

FORM OF THE RATE.

132 EVERY RATE
shall,
in addition to any other particular which the form of making out such rate may require to be set forth,
contain an account of every particular set forth at the head of the respective columns in the form given in the schedule to this Act annexed,
so far as the same can be ascertained.

6 & 7 *Wm.* 4, *c.* 96, *s.* 2.

Poor's Rate.

FORM OF THE RATE—*continued.*

FORM OF RATE.

An ASSESSMENT for the RELIEF of the POOR of the parish of *Merton*, in the county of *Surrey*, and for other purposes chargeable thereon according to law, made this *thirtieth* day of *March*, in the year of our Lord one thousand eight hundred and *thirty-seven*, after the rate of *sixpence* in the pound.

No.	Arrears due, or if excused.	Name of Occupier.	Name of Owner.	Description of Property rated.	Name or Situation of Property.	Estimated Extent.	Gross estimated Rental.	Rateable Value.	Rate at 6*d.* in the Pound.
	£. s. d.					A. R. P.	£. s. d.	£. s. d.	£. s. d.
1	..	James Smith	John Green	Land and Buildings.	Whiteacre Farm	40 0 0	60 0 0	55 0 0	1 7 6
2	..	Ditto	Ditto	House and Garden	In West Street	0 1 0	30 0 0	25 0 0	0 12 6
3	0 0 7½ Excused	John Poor	Ditto	House	In Brick Lane.	..	1 10 0	1 5 0	0 0 7½
&c.	&c.	&c.	&c.	&c.	&c.	&c.	&c.	&c.	&c.

Declaration of Overseers and Churchwardens.

We, do declare the several particulars specified in the respective columns of the above rate to be true and correct, so far as we have been able to ascertain them, to which end we have used our best endeavours.

THOMAS JONES, *Overseer.*
JOHN THOMAS, *Churchwarden, &c. &c.*

It has been held that the omission to enter these particulars does not affect the validity of the rate if it be in other respects valid. *Reg.* v. *Fordham*, 9 *L. J. R.* (*n. s.*) *M. C.* 3.

But it may be presumed that, though the overseers are not mentioned in this clause of the sentence, it is their duty to enter the particulars required by the statute; and that, if they neglect, they are penally responsible, otherwise the declaration in the statute would be left without any sanction whatever.

Before this statute it was held that;—

1. The *title* of the rate is material—inasmuch as it must *appear* to be for a lawful purpose. *R.* v. *Wavell*, 1 *Bott.*, 112.

2. The rate must particularize the property in respect of which the rate is laid on any person. *R.* v. *Aire and Calder Navigation*, 2 *B. & C.*, 713.

3. The description of the property (38 to 59) must be in such terms as to show *primâ facie* that it is rateable.

a. If any owners of tenements compound for the rates to be assessed on the same (83),

THE GROSS ESTIMATED RENTAL of the hereditaments compounded for
shall
be entered in the proper column.

6 & 7 *Wm.* 4, *c.* 96, *s.* 2.

133 And THE 'OVERSEERS'
or other officers whose duty it may be to make and levy (?) the said rate, or such a number of them as are competent to the making (and levying?) of the same,
shall
before the rate is allowed by the justices,
sign the declaration given at the foot of the said form (132).
And otherwise,

FORM OF THE RATE—*continued.*

THE SAID RATE
shall
be of no force or validity.
6 & 7 *Wm.* 4, *c.* 96, *s* 2.

ALLOWANCE OF THE RATE.

134 THE 'OVERSEERS,' or the greater part of them,
shall
take order
from time to time
with the consent of 'two justices'
to raise the rate.
43 *Eliz., c.* 2, *s.* 1.

The 'consent' of the justices is now ordinarily called the *allowance* of the rate.

A Poor's Rate is of no force until allowed by justices.

but the allowance is held to be a mere matter of form. *R.* v. *Justices of Dorchester, Bott.*, 84.

And the act of allowance merely a *ministerial* and *not a discretionary act. R.* v. *Uttoxeter, Bott.*, 83.; therefore the justices must allow any rate presented to them, signed by the proper number of 'overseers.' *R.* v. *Dorchester.* And they will be compelled by mandamus to do so. *R.* v. *Edwards, Bott.*, 87.

But the following provision has rendered the allowance by justices a judicial Act, so far as it prohibits the allowance by justices, of any rate not made upon the estimate of net annual value prescribed by the Act (95).

a. NO RATE for the relief of the Poor,
which is not made on an estimate of the net annual value of hereditaments rated thereto (95)
shall
be allowed by any justices
or be of any force.
6 & 7 *Wm.* 4, *c.* 96, *s.* 1.

This, without question, casts upon the justices the duty and the responsibility of ascertaining whether the estimate of property prescribed by the Act has been adopted in the rate.

But justices very rarely, if ever, perform this duty since the decision in the case of *Reg.* v. *Fordham.* (9 *L. J. R.* (*n. s.*) *M. C.* 3) was promulgated. It seems to have been very generally misunderstood by justices that that decision has the effect of declaring the duty of justices to be still merely ministerial with respect to the estimate of value on which the rate is made. But the decision has, in fact, no relation whatever to the question of the estimate; it turns entirely on another clause of the Act, and it merely decides, what is otherwise sufficiently obvious, that the rate is not void merely on the ground that it is not in the form required by the 2nd section of the Act, or does not contain the particulars required by that section, matters wholly distinct from the adoption of the estimate prescribed by the 1st section of the Act.

Since these notes were printed, the case of *The Queen* v. *Lord Yarborough* has been published. It appears in that case, that after the Parochial Assessments Act had come into operation, a survey and valuation was made of the parish of Brading. The overseers afterwards made a rate, but did not in all respects conform to the valuation, making certain alterations which in their judgment rendered the rate more equal. The defendants, being justices sitting in petty sessions, refused to allow the rate, on the ground that *it varied from the survey and valuation.*

This was evidently a wrong ground of refusal. The overseers are certainly

Poor's Rate.

ALLOWANCE OF THE RATE—*continued.*

not bound by any man's valuation, if it is in fact, or in their judgment, incorrect. The proper ground for the justices to have assigned for their refusal would appear to have been, if the fact were so, *that the rate was not made on an estimate of the net annual value of the hereditaments rated thereto*, &c., in the very terms of the Parochial Assessments Act.

As it was, the Court decided against the justices, observing, truly, that "the justices had not attempted to bring the case within the terms of the "Act, by showing that the rate was not made on an estimate of net annual "value; but they rely specifically upon this, that the rate did not follow the "valuation." Moreover the Court further intimates, in clear terms, its opinion that the justices have no judicial authority in the allowance of a rate, and that their duty is still entirely ministerial. Lord Denman, Chief Justice, says, "I will not flinch from saying that I think that the justices cannot "refuse to allow a rate, even where they are of opinion that the rate is not "made upon a proper estimate of annual value, as required by the Act."

b. If the 'parish' be in a county,

'TWO JUSTICES' (19, 21),

The allowance must be by justices out of quarter sessions, otherwise there would be no appeal.

whereof one to be of the *quorum*,

dwelling in or near the division where the 'parish' doth lie,

The allowance need not purport to be by justices dwelling in or near the division where the parish doth lie; for this part of the statute is only directory. *Cobbett* v. *St. Mary*, 1 *Bott.*, 82.

shall

allow the rate.

43 *Eliz.*, *c.* 2, *s.* 1; 13 & 14 *Car.* 2, *c.* 12, *s.* 17.

Or if the 'parish' be wholly within an exclusive jurisdiction

'TWO JUSTICES' of that jurisdiction

shall

allow the rate.

43 *Eliz.*, *c.* 2, *s.* 8.

Or if a parish lie within two places of concurrent jurisdiction,

'TWO JUSTICES' of either jurisdiction, or one of the one jurisdiction and one of the other,

shall

allow the rate.

43 *Eliz.*, *c.* 2, *s.* 8.

Or if a parish lie within two places of exclusive jurisdiction,

'TWO JUSTICES' at least of each such jurisdiction,

shall

allow the rate.

43 *Eliz.*, *c.* 2, *s.* 9.

PUBLICATION OF THE RATE.

By Public Notice.

138 THE 'OVERSEERS,'

or other persons authorized to take care of the poor in every 'parish,'

It should be '*the other persons authorized to make the rates* for relief of the 'poor in every parish.' The words used in the statute would, for instance,

PUBLICATION OF THE RATE.

By Public Notice—continued.

impose this duty on guardians under Gilbert's Act, (22 *Geo.* 3, *c.* 83, *s.* 7.) who are *authorized to take care of the poor*; but *have no authority to make rates*, and therefore can properly have nothing to do with the publication of the rates.

shall
give, or cause to be given,
public notice
in the church

These words, in the church, are repealed by the operation of the 1 *Vic.* *c.* 45, *ss.* 1 & 2, *post* (*a*.)

of every rate for the relief of the poor allowed by the 'justices' (134)

If the notice states that a rate will be *collected*, it will be sufficient, *Bennett* v. *Edwin*, 7 *B.* & *C.*, 586.

the next Sunday after the same has been so allowed.

17 *Geo.* 2, *c.* 3, *s.* 1.

The statute requires the publication on the next Sunday; publication on any Sunday *after* the *next* will not make the rate valid. *R.* v. *Newcombe* 4 *T. R.*, 368.

a. NO PUBLIC NOTICE
of any matter
shall
be made or given in any church or chapel during or after divine service,
or at the door of any church or chapel at the conclusion of divine service.

1 *Vic.*, *c.* 45, *s.* 1.

But ALL NOTICES
which by virtue of any law or statute, or by custom or otherwise,
have been heretofore made, or given in churches or chapels during or after divine service,
shall
be reduced into writing;
And COPIES THEREOF, either in writing or in print, or partly in writing and partly in print,
shall
be affixed
on or near to the doors
of all the churches and chapels within the parish or place
previously to the commencement of divine service,
on the several days on which such notices have heretofore been made, or given in the church or chapel of any parish or place,
or at the door of any church or chapel.
And SUCH COPIES so affixed
shall
be in lieu of, and as a substitute for the notices so heretofore (made or) given as aforesaid,
and *shall*
be good, valid, and effectual to all intents and purposes whatsoever.

1 *Vict.*, *c.* 45, *s.* 2.

b. Unless such notice have been given,
NO RATE
shall

Poor's Rate.

PUBLICATION OF THE RATE.

By Public Notice—continued.

be esteemed or reputed valid and sufficient,
so as to collect and raise the same.
17 Geo. 2, c. 3, s. 1.

By Inspection.

139 All persons assessed
or liable to be assessed
may
freely resort
to the rate-books to be kept by 'overseers' in some public or other place in 'every parish.' (130, *a.*)
17 Geo. 2, c. 38, s. 13.

See Ante (130, *a.*). Penalty for not allowing inspection (265).

The *rate-books* here referred to are both the present rate-books and the past.

This power to *all persons assessed* or *liable to be assessed* to inspect the rate-books is not co-extensive with the rights given by *17 Geo. 2, c. 3, s. 2*, to *every inhabitant* (140). It might easily happen in a small parish that *no inhabitant* would be *liable to be assessed*, and that *no person liable to be assessed* would be *an inhabitant*.

The like disparity of terms applies also to the right given by the *6 & 7 Wm. 4, c. 96, s. 5*, to *any person rated* to the relief of the poor (141), terms which would obviously include persons not inhabitants, viz. non-resident occupiers, and would omit many inhabitants not rated, and not liable to be rated, and would also omit even parsons, vicars, inhabitants, and occupiers, *liable to be rated*, if in fact they were not rated.

The result of all these enactments appears to be,—

1. All persons *assessed in fact, although wrongfully*, may resort to the rate-books present and past.

—whether such persons be inhabitants or not, or occupiers or not, *17 Geo. 2, c. 38, s. 13*:

The same persons may take copies gratis, *6 & 7 Wm. 4, c. 96, s. 5*.

2. All persons *liable to be assessed, although not assessed*, may resort to the rate-books present and past.

—whether such persons be inhabitants or not, or occupiers or not, *17 Geo. 2, c. 38, s. 13*.

But these persons are not entitled to take copies gratis by *6 & 7 Wm. 4, c. 96, s. 5*.

3. Every inhabitant of the parish (*s. 2*), *qy.* and every parishioner? (*s. 3*) may inspect every current-rate—paying 1*s.* (140),
and may have copies at the rate of 6*d.* for every 24 names (142),

—whether such inhabitant be rated or not, or be liable to be rated or not, *17 Geo. 2, c. 3, s. 2, 3*.

But if not assessed, or not liable to be assessed, he has not free resort to rate-books under the *17 Geo. 2, c. 38, s. 13*.

And if not *actually assessed*, he is not entitled to take copies *gratis* under the *6 & 7 Wm. 4, c. 96, s. 5*.

140 The 'overseers'
or other persons authorized to take care of the poor, in every 'parish,'
It should be 'persons having custody of the rate-books.' *See above* (138), and see *Bennet* v. *Edwards*, *7 B. & C.*, 586; *and Whitchurch* v. *Chapman*, *3 B. & Add.*, 691.

shall
permit
all and every the inhabitants of the said 'parish'
17 Geo. 2, c. 3, s. 2.

PUBLICATION OF THE RATE.

By Inspection—continued.

(and parishioners)

17 *Geo.* 2, *c.* 3, *s.* 3.

As to the disparity of the terms of this statute, and of the 17 *Geo.* 2, *c.* 38, *s.* 13, and of the 6 & 7 *Wm.* 4, *c.* 96, *s.* 5, see remark above (139).

to inspect every poor rate,

The poor rates here referred to are the current rates, not the past rates.

at all seasonable times,

paying 1*s.* for the same.

17 *Geo.* 2, *c.* 3, *s.* 2.

And if any 'overseer'

or other person authorized to take care of the poor in any parish,

See above (138). The words should be 'any person having custody of the rate-books.'

do not permit any inhabitant or parishioner to inspect the rates,

17 *Geo.* 2, *c.* 3, *s.* 3.

The rates here referred to are the current rates only, not past rates.

It is presumed that it must be shown that the tender was made by the inhabitant or parishioner of the 1*s.* for inspection. In this section '*parishioner*' is added. In the section imposing the duty on the officers, only *inhabitants* are mentioned. See *Spenceley* v. *Robinson*, 3 *B.* & *C.*, 658.

(and if the inhabitant or parishioner be aggrieved by such refusal or neglect,)

Spenceley v. *Robinson*, 3 *B.* & *C.*, 658.

SUCH OVERSEERS or other person as aforesaid

shall

for every such offence

forfeit and pay to the party aggrieved the sum of 20*l.*

to be sued for and recovered by action of debt, plaint, bill, or information,

in any of His Majesty's Courts of Record,

wherein no essoine, protection, or wager of law, nor more than one imparlance shall be allowed.

17 *Geo.* 2, *c.* 3, *s.* 3.

141 ANY PERSON RATED in any rate for the relief of the poor

may,

As to the disparity of the terms of this statute, and of the 17 *Geo.* 2, *c.* 38, *s.* 13; and of the 17 *Geo.* 2, *c.* 3, *ss.* 2 & 3, see the remarks above on (139).

at all seasonable times,

take copies thereof,

or extracts therefrom,

without paying anything for the same.

And if any person having custody of such rate

refuse to permit or do not permit

any person rated as aforesaid

to take such copies or extracts,

THE PERSON SO REFUSING, or not permitting such copy or extract to be taken,

shall

forfeit and pay

any sum not exceeding 5*l.*,

Poor's Rate.

PUBLICATION OF THE RATE.

By Inspection—continued.

to be recovered in a summary way
before any (one) 'justice'
having jurisdiction in the 'parish.'
6 & 7 *Wm.* 4, *c.* 96, *s.* 5.

142 The 'overseers,'
or other persons authorized to take care of the poor in every 'parish,'

See above (138). It should be 'the persons having the custody of the rate-books.' See *Bennet* v. *Edwards*, 7 *B. & C.*, 586, and *Whitchurch* v. *Chapman*, 3 *B. & Add.*, 691.

shall
upon demand

At a reasonable time and place, *Spenceley* v. *Robinson*, 3 *B. & C.*, 658.

forthwith

i. e., within a reasonable time, *Spenceley* v. *Robinson*, 3 *B. & C.*, 658.

give copies of the poor's rate,

The rate here referred to is the currant rate, not the past rates.

or any part thereof,
to any inhabitant of the 'parish,' paying at the rate of 6*d.* for every 24 names.
17 *Geo.* 2, *c.* 3, *s.* 2.

And if any 'overseer,'
or other person authorized to take care of the poor in any parish,

See above (138). The words should be *any person having custody of the rate-books.*

refuse or neglect to give copies of the rate
to any inhabitant
or parishioner,
17 *Geo.* 2, *c* 3, *s.* 3.

It is presumed that it must be shown that a tender was made by the inhabitant or parishioner, on payment at the rate of 6*d.* for every 24 names required.

In this section '*parishioner*' is added; in the section imposing the duty on the officer, only *inhabitants* are mentioned.

(and if the inhabitant or parishioner be aggrieved by such refusal or neglect,)
Spenceley v. *Robinson*, 3 *B. & C.*, 658.

such overseers or other person as aforesaid
shall,
for every such offence,
forfeit and pay to the party aggrieved
the sum of 20*l.*,
to be sued for and recovered by action of debt, plaint, bill, or information,
in any of His Majesty's Courts of Record,
wherein no essoine, protection, or wager of law, or more than one imparlance shall be allowed.
17 *Geo.* 2, *c.* 3, *s.* 3.

143 The Court of Queen's Bench

PUBLICATION OF THE RATE.

By Inspection—continued.

will issue a mandamus
to compel allowance of inspection of rates.

R. v. *Clear*, 4 *B. & C.*, 899.

144 The owner of every rent-charge payable instead of tithes,
shall
have the like right
of demanding, inspecting, and taking copies
of every assessment containing any rate or charge upon any such rent-charge
as any occupier or rate-payer may have in the case of poor's rate (139 to 143),
notwithstanding that such rate or charge is assessed upon the occupier (85),
and that the owner of the rent-charge is not mentioned by name in the assessment.

6 & 7 *Wm.* 4, *c.* 71, *s.* 70.

145 If any landowner
or titheowner
interested therein, (*semble*, in any tax or rate,)

Interested evidently means here, interested for the purposes of the Tithe Commutation Acts, and is not confined to an interest as a party rated, an interest which 'landowners,' as such, have not.

give a notice in writing signed by him

The Act does not define the terms of the notice.

to the assessor or collector
of any rate or tax.

Qy. Assessed taxes, land tax, &c.?

such assessor or collector
shall,
within 40 days after the receipt of such notice,
specify, in his assessment made for the purpose of collecting and levying such rate or tax,
the names of the several occupiers
of tithes,

Does this refer to the parson or vicar who are not *occupiers* of tithes? or to owners of tithes impropriate or appropriate, who are held to be *occupiers* of tithes by construction of the statute of Elizabeth? or *occupiers of land* subject to the rent-charge in lieu of tithes? The subsequent words in the clause, 'sums assessed on the tithes, lands, or tenements held by each *such* occupier,' rather indicate that the latter is the meaning.

lands,
and tenements subject to such rate or tax,
as well as the sums assessed
on the tithes,
lands,
or tenements
held by each such occupier.

2 & 3 *Vic.*, *c.* 62, *s.* 3.

Poor's Rate.

PUBLICATION OF THE RATE.

By Inspection—continued.

Is it intended to authorize the insertion of the details *in the rate-book* itself, an insertion which, without this provision, is undoubtedly, after the rate has been allowed, illegal? or does it merely require an insertion of the details described *in the collecting-book?* It is probable that the former is meant, because that is open to the inspection of every person rated, or liable to be rated (139), and of every inhabitant (140): the latter book is not open to the inspection of any person.

But even the rate-book is not open to the majority of 'landowners,' who, for the most part, are neither rated, nor liable to be rated, nor inhabitants in the parish in which they are interested. What is the remedy or penalty for neglect by the assessor or collector?

REMEDIES AGAINST RATES.

Litigious Remedies.

Appeal against the Rate.—i. *to Quarter Sessions.*

154 Where any person,

43 *Eliz.* c. 2, *s.* 6.
17 *Geo.* 2, *c.* 38, *s.* 4.

'owner,' or other (83),

59 *Geo.* 3, *c.* 12, *s.* 22.

finds himself aggrieved by any rate made for the relief of the poor

43 *Eliz.* c. 2, *s.* 6.
17 *Geo.* 2, *c.* 38. *s.* 4.

If the grievance be common to several persons, any number of those persons may join in the appeal. *R.* v. *White,* 47 *R.,* 771; *R.* v. *Justices of Sussex,* 15 *East,* 206.

(in any 'parish' or)
in any union for rating,

4 & 5 *Wm.* 4, *c.* 76, *s.* 35.

or has any material objection to any person or persons being put on such rate,
or left out of such rate,
or to the sum charged on any person or persons therein,
or finds himself aggrieved by any neglect, act, or thing, done
by the 'overseers,'
or by any 'justice,'

The *grounds of appeal* contemplated by this statute are,—

—1. *If the person finds himself aggrieved.*

As when a person who is not by law rateable is aggrieved by being rated,—

Or is rated for a purpose to which the poor rate is not by law applicable,—in this case, the appeal against the rate only lies when the unlawful purpose is made apparent by the title of the rate. *R.* v. *Micklefield,* 1 *Bott.,* 328.

Or for property, which is not rateable;

Or for an amount beyond that for which he is liable;

Or, being entitled to be rated, is left out of the rate,—a case which may amount to a grievance where a party is deprived of any of the privileges or advantages peculiarly reserved to rate-payers.

It is also said, that if a rate made for any time be injurious to any person on account of his leaving the parish before the expiration of that time, he

REMEDIES AGAINST RATES.

LITIGIOUS REMEDIES.

Appeal against the Rate.—i. *to Quarter Sessions*—continued.

should appeal to the sessions, who will relieve him on proving that he is aggrieved. Per *Lord Kenyon, C. J.; Durrant* v. *Boys*, 1 *Bott.*, 95.

This was said, since the 17 *Geo.* 2, *c.* 38, *s.* 12, has provided for a division of the rate in such cases, according to the respective periods of occupation of an out-going and of an in-coming tenant. But as the rate itself was right when made, it scarcely can be considered a ground of appeal against it, that some subsequent fact, not brought about by the parish officers, but produced wholly by the the tenant himself, is a ground of appeal against the rate; it would rather appear to be merely a ground for relief against payment. If it were a lawful ground of appeal against the rate, there would have been no occasion for the relief given to out-going tenants under the 17 *Geo.* 2, *c.* 38, *s.* 12, nor, by like reason, for that to the in-coming tenants.

—2. *If there be any objection to any person being put on the rate.*

It is not very easy to find cases in which one rate-payer is injured by other persons being improperly put on the rate; inasmuch as the more persons are put on the rate, the less will each person rated have to contribute.

But it is conceivable that persons might be put on the rate from whom payment could not be enforced, instead of the proper persons from whom payment could be more easily got. This, however, would obviously come under the 3rd class of objections, viz. *the omission of persons liable.*

There are however indirect grievances from putting persons on the rate who are not liable; inasmuch as many privileges, parochial, municipal, parliamentary, and other, are conferred in respect of liability to taxation, and especially of the liability to poor's rate, and moreover a settlement might be obtained in a parish by payment of taxes. The putting of wrong parties on the rate would therefore, where such effects as these might ensue, be a grievance to those who are really liable to be rated, and it was probably with some such danger in view that this ground of appeal was described in the statute.

In this view, this 2nd ground of appeal is not complete without the aid of the 4th; for many privileges depend on being rateable to a certain amount, and there should, therefore, be a remedy not only where improper persons are put on the rate, but also where other persons than the appellants are rated so much above their value as to obtain privileges or advantages which they would not obtain if rated only at the proper amount.

—3. *Where any person liable is left out of the rate.*

This would evidently be included in the 1st class; the omission of any person liable being obviously a grievance to all the rate-payers, who must, through such omission, each contribute the more.

But the 41 *Geo.* 3, *c.* 23, *s.* 6, subsequently gave a sense and value to the distinction of the present species of objection, by requiring a *notice* in writing to be given to every person whom the appellant alleged to be wrongfully omitted (156). Whereas no such notice is necessary where the ground of appeal is only that the appellant himself is wrongfully rated.

—4. *Where the sum charged on any person or persons is objected to.*

If the appellant himself is rated too high, or if, by being rated too low, he loses any privilege or benefit of a rate-payer, this would be a ground of appeal of the 1st class, and thus far the present is only a species of objection of th 1st class.

If any other person is rated too low, this also would be a direct grievance on the appellant, falling under the 1st class; but if any other person was rated too high, the grievance would only arise indirectly; as by giving such person some consequential privilege or benefit, which would diminish the relative value of the appellant's privileges, or involve some disadvantage to him. Even this grievance would appear to be sufficiently provided for by the description of the 1st class of objections given above.

—5. *If a person be aggrieved by any neglect, or act, or thing, done by the 'overseers.'*

This seems to be, so far as the rate is concerned, only a repetition of the 1st class of objections.

POOR'S RATE.

REMEDIES AGAINST RATES.

LITIGIOUS REMEDIES.

Appeal against the Rate.—i. *to Quarter Sessions*—continued.

In the statute these words have reference not only to rates, but to accounts, and apparently to all other acts of overseers.

—6. *If any person be aggrieved by any neglect, or act, or thing, done by the 'justices.'* This in the statute has reference to other subjects besides the rates. So far as the rates are concerned, the act of the justices in allowing rates, that act being ministerial, does not appear to admit of any objection which would not apply to the rate itself as prepared by the 'overseers.'

—7. *If the rate be a nullity*, a person objecting is not confined to the remedy by appeal, but may, if his goods be taken, have his remedy by action of trespass or by replevin. *Milward* v. *Caffin*, 2 *Bl. Rep.*, 1330; *Durrant* v. *Boys*, 67, *R.*, 580.

if the person so aggrieved
give reasonable notice of appeal
to the 'overseers' of the 'parish,'

17 *Geo.* 2, *c.* 38, *s.* 4.

and to the other persons, if any, entitled to such notice,

41 *Geo.* 3, *c.* 23, *s.* 6.

THE PERSON SO AGGRIEVED
may
appeal
to the next

i. e., to the next *possible* sessions, *R.* v. *Coode*, 1 *Bott.*, 290;
after the publication of the rate (138), *R.* v. *Micklefield*, 1 *Bott.*, 291;
or after allowance, *R.* v. *Atkins*, 4 *T. R.*, 12.

If several rates have been made since the last quarter sessions, the appeal may be against all of them conjunctively. *R.* v. *Weobley*, 2 *Str.*, 1261; *R.* v. *Suffolk*, 1 *B. & A.*, 640.

general or quarter sessions of the peace
for the 'county,'
or 'place,'

R. v. *Taunton*, 1 *Bott.*, 282.

where such 'parish'

43 *Eliz.*, *c.* 2, *ss.* 6 & 8.
17 *Geo.* 2, *c.* 38, *s.* 4.

or union for rating

4 & 5 *Wm.* 4, *c.* 76, *s.* 35.

lies.

17 *Geo.* 2, *c.* 38, *s.* 4.

a. THE OWNER of every rent-charge, payable instead of tithes,
shall
have the like right of appeal against any assessment containing a rate or charge upon any such rent-charge;
and the like power of prosecuting such appeal,
and the like remedies in respect thereof,
as any occupier or rate-payer may have in the case of poor's rate,
notwithstanding that such rate or charge is assessed upon the occupier (85),

REMEDIES AGAINST RATES.

LITIGIOUS REMEDIES.

Appeal against the Rate.—i. *to Quarter Sessions*—continued.

and that the owner of the rent-charge is not mentioned by name in the assessment.

6 & 7 *Wm.* 4, *c.* 71, *s.* 70.

155 But in every corporation or franchise, which has not four justices of the peace,
if any person so aggrieved, as aforesaid, think fit,
HE
may
appeal
to the next general quarter sessions of the peace
for the 'county' wherein such corporation or franchise is situate.

17 *Geo.* 2, *c.* 38, *s.* 5.

156 Unless the notice of appeal against any rate made for the relief of the poor be in writing,
and unless it state and specify the particular grounds or causes of appeal (154),
and unless it be signed by every person giving the same, or by his attorney on his behalf;
and unless it be delivered
to the 'overseer' of the 'parish,'
or to any two of them,
or be left at their places of abode;
THE 'JUSTICES' at such sessions (154)
shall not
receive such appeal.

41 *Geo.* 3, *c.* 23, *s.* 4.

a. And where any person appeals against any rate
because any other person is rated in such rate,
or is omitted to be rated therein,
or because any other person is rated at any greater or less sum than the sum at which he ought to be rated therein,
or for any other cause that may require any alteration to be made in the rate with respect to any other person,
then unless the person so appealing give notice in writing, as aforesaid,

Viz., 1. Stating and specifying the particular grounds of appeal; 2. Signed by the party or his attorney.

not only to the 'overseers,' or any two of them,
but also to every person so interested or concerned, as aforesaid, in the event of the appeal;
THE 'JUSTICES' at such sessions
shall not
receive such appeal.

41 *Geo.* 3, *c.* 23, *s.* 6.

Power of Quarter Sessions.—1. To receive and hear Appeal.

158 Where any person aggrieved with any cess or tax (154),

43 *Eliz.*, *c.* 2, *s.* 6.

Poor's Rate.

REMEDIES AGAINST RATES.

Litigious Remedies.

Appeal against the Rate.—i. *to Quarter Sessions.*

Power of Quarter Sessions.—1. To receive and hear Appeal—*continued.*

appeals to the next general or quarter sessions (154),
17 *Geo.* 2, *c.* 38, *s.* 4.

if it appear that reasonable notice has been given (156),
17 *Geo.* 2, *c.* 38, *s.* 4.
41 *Geo.* 3, *c.* 23, *s.* 4.

The notice must be such as is required by the 41 *Geo.* 3. *c.* 23 (156).
The *reasonableness* here required refers only to the time of notice.

THE 'JUSTICES' at such sessions
shall
receive such appeal,
and *shall*
hear and finally determine the same,
17 *Geo.* 2, *c.* 38, *s.* 4.

taking such order therein as by them may be thought convenient;
the same to conclude and bind all parties.
43 *Eliz.*, *c.* 2, *s.* 6.

a. But if it appear to the said justices
that reasonable notice was not given,

The reasonableness here referred to regards the *time* of the notice—apparently not the terms or the matter of the notice, which were subsequently provided for the 41 *Geo.* 3, *c.* 23, *s.* 6. See (156).

THEY
shall
adjourn the said appeal to the next quarter sessions,
and *shall*
then and there hear and finally determine the same.
17 *Geo.* 2, *c.* 38, *s.* 4.

159 And upon the hearing of the appeal,
THE COURT
shall not
examine or inquire into
any other cause or ground of appeal
than such as is stated or specified in the notice of appeal (156).
41 *Geo.* 3, *c.* 23, *s.* 4.

a. Nevertheless, in any case in which no notice of appeal has been given in writing (156),
if the 'overseers,'
by themselves or their attorney,
in open court,
consent that the appeal be heard,
and if any other person interested in the appeal

This should be the consent of *all* the other persons interested in the event of the appeal.
This consent of other persons apparently need not be given *in open court*,

REMEDIES AGAINST RATES.

LITIGIOUS REMEDIES.

Appeal against the Rate.—i. *to Quarter Sessions.*

Power of Quarter Sessions.—1. To receive and hear Appeal—*continued.*

give the like consent,
THE COURT
may
proceed to hear and decide upon the appeal,
although no notice thereof have been given in writing.
41 *Geo.* 3, *c.* 23, *s.* 5.

b. And in any case in which notice of appeal has been given in writing (156),
but any grounds of appeal are not stated,
or are misstated in such notice,
if the 'overseers,'
by themselves or their attorney,
in open court,
consent that such grounds of appeal be examined and inquired into,
and if any other person interested in this appeal give the like consent,

See remarks on the preceding paragraph (*a*).

THE COURT
may
hear and decide
upon such grounds of appeal.
41 *Geo.* 3, *c.* 23, *s.* 5.

160 And EVERY PERSON INTERESTED or concerned in the event of any appeal,
who has received notice of appeal as aforesaid (156 *a*),
shall,
if he so desire,
be heard upon such appeal.
41 *Geo.* 3, *c.* 23, *s.* 6.

161 When any appeal is to be heard or determined (?) at any general or quarter sessions,
THE OVERSEERS (for the time being)
shall
produce at such sessions
true and just copies of all rates made for the relief of the poor,
(whether made by the present overseers (130), or delivered to them by their predecessors (131)).
17 *Geo.* 2, *c.* 38, *s.* 13.

—2. to amend Rates.

162 Upon all appeals made to 'justices,' at 'quarter sessions,' holden for any 'county or place,' against judgments given or orders made by any justices of the peace,

This appears to apply in terms equally to appeals against rates (154), to appeals against distresses for rates, and to appeals against allowances or disallowances in accounts.

THE JUSTICES so assembled at quarter sessions
shall

Poor's Rate.

REMEDIES AGAINST RATES.

Litigious Remedies.

Appeal against the Rate.—i. *to Quarter Sessions.*

Power of Quarter Sessions.—2. to amend Rates—*continued.*

cause any defect of form
found in such original judgments or orders,
to be rectified and amended
without any cost or charge to the parties concerned.
And after such amendment made,
THE SAID JUSTICES
shall
proceed in the matter as by law they should have done in case there had not been such defect or want of form in the original proceeding.
5 *Geo.* 2, *c.* 19, *s.* 1.

163 Upon all appeals against rates made for the relief of the poor,
if the 'justices' see just cause to give relief,
17 *Geo.* 2, *c.* 38, *s.* 6.
41 Geo. 3, c. 23, *s.* 1.

THE SAID JUSTICES
shall
amend the same in such manner only as may be necessary for giving such relief
17 *Geo.* 2, *c.* 38, *s.* 6.

either by inserting therein the name or names of any person or persons;
or by altering the sum or sums therein charged to any person or persons;
or in any other manner which the court shall think necessary for giving such relief,
and without quashing or wholly setting aside such rate,
41 *Geo.* 3, *c.* 23, *s.* 1.

and without altering such rates with respect to other persons mentioned in the same.
17 *Geo.* 2, *c.* 38, *s.* 6.

Qy.—Unless they have had notice of the appeal, as provided by the 41 *Geo.* 3, *c.* 23, *s.* 6 ?

a. And on the hearing of any such appeal,
THE COURT
may
order the name of any other person interested or concerned in the event of the appeal, who has had notice thereof, as aforesaid (156),
to be inserted in such rate,
and him to be therein rated at any sum of money,
or *may*
order
the name of such person to be struck out of such rate,
or any sum at which he is rated therein to be altered
in such manner as the court may think right.
41 *Geo.* 3, *c.* 23, *s.* 6.

b. And THE PROPER OFFICER of the court
shall

REMEDIES AGAINST RATES.

LITIGIOUS REMEDIES.

Appeal against the Rate—1. *to Quarter Sessions.*

Power of Quarter Sessions,—2. to amend Rates—*continued.*

forthwith
add to or alter the rate accordingly.
41 *Geo.* 3, *c.* 23, *s.* 6.

c. When any appeal against any rate made for the relief of the poor has been heard,
if the court order the name of any person to be struck out of such rate, or the sum rated on any person to be decreased or lowered,
and if it be made appear to the said court that such person hath, previously to the hearing of such appeal, paid any sum of money in consequence of such rate, which he ought not to have paid, or be charged with,
THE SAID COURT
shall
order
every such sum of money to be repaid and returned by the 'overseer' to the person who paid the same,
together with all reasonable costs, charges, and expenses occasioned by such person having paid, or been required to pay the same.
41 *Geo.* 3, *c.* 23, *s.* 8.

164 And EVERY SUM so ordered to be repaid by the 'overseers' (163 *c*), together with all costs, charges, and expenses, as aforesaid,
shall, and may
be levied and recovered
from the 'overseers,' or any of them,
by distress,
and by all other ways and means by which the money assessed on any person by any rate made for the relief of the poor may be by law levied or recovered.
41 *Geo.* 3, *c.* 23, *s.* 8.

165 When all appeals against any rate for the relief of the poor have been determined,
If there be more than one appeal, the overseers should not make out the new copies until the last of these appeals is determined.
THE 'OVERSEERS'
shall
provide a proper book,
and *shall*
take care
that, within 14 days after such determination,
a true and just copy of such rate
be fairly wrote and entered in such book,
and *shall*
attest the same
by putting their names thereto.
17 *Geo.* 2, *c.* 38, *s.* 13.

This evidently does not apply to rates quashed on appeal (166), nor to the new rate to be made after a previous one has been quashed (168), inas-

POOR'S RATE.

REMEDIES AGAINST RATES.

LITIGIOUS REMEDIES.

Appeal against the Rate—i. *to Quarter Sessions.*

Power of Quarter Sessions—2. to amend Rates—*continued.*

much as such new rate is not a rate *the appeal against which* has been determined.

The provisions therefore can only apply to rates amended on appeal (163).

These rate-books are to be kept open to the inspection of all persons assessed, or liable to be assessed (139), and are to be produced on future appeals (161)

—3. to quash Rates.

167 But upon any appeal from the whole rate,
if it be found necessary,
17 *Geo.* 2, *c.* 38, *s.* 6.
for the purpose of giving relief to the person appealing,
that the rate should be wholly quashed,
THE COURT
may
quash the same.
41 *Geo.* 3, *c.* 23, *s.* 1.

a. And in every such case,
THE JUSTICES
shall
order and direct the 'overseers'
to make a new equal rate.
17 *Geo.* 2, *c.* 38, *s.* 6.

b. And THE 'OVERSEERS'
shall
make a new equal rate
accordingly.
17 *Geo.* 2, *c.* 38, *s.* 6.

—4. to award Costs.

168 And THE SAID JUSTICES (162)
may
award and order
to the party for whom such appeal may be determined,
reasonable costs,
in the same manner as justices are empowered to do in case of appeals concerning the settlement of poor persons, by an Act, &c., (8 *and* 9 *Wm.* 3, *c.* 30).
17 *Geo.* 2, *c.* 38, *s.* 4.

Appeal against the Rate—ii. *to Special Sessions.*

171 THE JUSTICES acting in and for every petty sessions' division

Counties of cities, counties of towns, boroughs, and other places in which the justices do not divide for the holding of petty sessions, appear not to have the benefit of this power of appeal to special sessions, nor consequently of the further appeal from special to quarter sessions.

shall,
four times at least in every year,

REMEDIES AGAINST RATES.

Appeal against the Rate—ii. *to Special Sessions*—continued.

hold a special sessions
for hearing (and deciding) appeals against the (poor's?) rates
of the several parishes,
6 & 7 *Wm.* 4, *c.* 96, *s.* 6.

or other districts,
6 & 7 *Wm.* 4, *c.* 96, *s.* 7.

This, besides townships and other single places separately maintaining their own poor, would probably be held to include a union for rating (124), if such a union should be wholly within the division of petty sessions.

within their respective divisions.
6 & 7 *Wm.* 4, *c.* 96, *s.* 6.

The terms of this clause are not expressly confined to poor's rate, and they appear to give the special sessions jurisdiction in all cases where quarter sessions have jurisdiction to hear appeals against parochial rates of any kind. But when the quarter sessions have no jurisdiction to hear appeals against any rate, it is clear that the special sessions can have no jurisdiction under this Act. *See sec.* 7.

172 And SUCH JUSTICES (171)
shall
cause public notice of the time and place when and where such specia sessions will be holden
to be affixed to or near the door of the parish church of the said parishes
28 days at the least before the holding of the same.
6 & 7 *Wm.* 4, *c.* 96, *s.* 6.

173 And THE JUSTICES present at such special sessions
shall
hear and determine
all objections to any such rate on the ground
of inequality,
unfairness,
or incorrectness
in the valuation (95, 96, 97, 99) of any hereditaments included therein.
6 & 7 *Wm.* 4, *c.* 96, *s.* 6.

But THE SAID JUSTICES in special session
shall not
inquire into the liability of any hereditaments to be rated,
but only into the true value thereof,
and into the fairness of the amount at which the same have been rated.
6 & 7 *Wm.* 4, *c.* 96, *s.* 6.

a. THE OWNER of every rent-charge, payable instead of tithes
shall
have the like right of appeal against any assessment containing a rate or charge upon any such rent-charge;
and the like power of prosecuting such appeal,
and the like remedies in respect thereof,
as any occupier or rate-payer may have in the case of poor's rate,
notwithstanding that such rate or charge is assessed upon the occupier (85),
and that the owner of the rent-charge is not mentioned by name in the assessment.
6 & 7 *Wm.* 4, *c.* 71, *s.* 70.

Poor's Rate.

REMEDIES AGAINST RATES.

Litigious Remedies.

Appeal against the Rate—ii. *to Special Sessions*—continued.

b. But unless notice of such objection
in writing, under the hand of the complainant,
have been given
seven days at the least before the day appointed for such special sessions to the collector,
overseers,
or other persons by whom such rate was made,
THE SAID JUSTICES in special session
shall not
inquire into such objection.

6 & 7 *Wm.* 4. *c.* 96, *s.* 6.

Although the objections of inequality, unfairness, and incorrectness, (173) are such as affect the liability of other persons than the complainant, no provision is made by this Act for the giving of notice to any other persons than the officers making the rate.

The justices are required to hear and determine all objections on these grounds—and therefore do not seem to be restrained, as the justices at quarter sessions are (156, 158, 159) when notice is not given to all parties affected by the appeal. The terms of the subsequent section, giving to the justices at special sessions the same powers as justices at quarter sessions have of *amending* (162 to 165) or quashing (167) rates, and of awarding costs (168)—might possibly be used to restrain the justices at special sessions from altering the charge on other persons than the appellant. For as the justices at quarter sessions cannot determine any appeal, and therefore cannot *amend* a rate so as to alter the amount charged on any other person without notice to such other person (156, 158, 159), 41 *Geo.* 3, *c.* 23, *s.* 4, it may thence be argued that the justices at special sessions have no power to amend a rate unless a similar notice has been given.

c. THE JUSTICES present, at any such special sessions,
may
adjourn such special sessions
from time to time
as they may think fit.

6 & 7 *Wm.* 4, *c.* 96, *s.* 6.

d. THE JUSTICES present at any such special session
shall,
for the aforesaid purpose,
have all the powers
of amending (162) or quashing (167)
any such rate so objected to,
of any parish or other district within their division,
and of awarding costs (168) to be paid by, or to any of the parties,
and of recovering such costs,
which any court of quarter sessions has upon appeals from any such rate.
Except as herein excepted (173).

6 & 7 *Wm.* 4, *c.* 96, *s.* 7.

174 Unless some person impugn the decision of such justices at special sessions (172);
and unless such person,

REMEDIES AGAINST RATES.

LITIGIOUS REMEDIES.

Appeal against the Rate—ii. *to Special Sessions*—continued.

within 14 days after such decision,
cause notice to be given in writing
of his intention of appealing against such decision,
and of the matter or cause of such appeal,
to the person or persons in whose favour such decision was made;
and unless he,
within five days after giving such notice,
enter into a recognizance before some 'one justice,'
with sufficient securities,
conditioned to try such appeal, at the then next general sessions, or quarter sessions of the peace, which may first happen, and to abide the order of, and pay such costs as may be awarded by the justices at such quarter session, or any adjournment thereof.

THE DECISION OF THE 'JUSTICES' at special sessions (173)
shall
be binding and conclusive on the parties.
6 & 7 *Wm.* 4, *c.* 96, *s.* 6.

175 And NO ORDER of the said justices
shall
be removed by certiorari or otherwise
into any of His Majesty's courts at Westminster.
6 & 7 *Wm.* 4, *c.* 96, *s.* 7.

176 THE POWERS GIVEN BY THIS ACT to try appeals against rates at special sessions (173)
shall not
be construed
to deprive any person
of the right to appeal against any rate to any court of general or quarter sessions (154).
6 & 7 *Wm.* 4, *c.* 96, *s.* 7

177 No ORDER of justices in special sessions
shall
be of any force
pending any appeal touching the same subject matter, to the court of general or quarter sessions of the peace, having jurisdiction to try such appeal (154),
or in opposition to the order of any such court [of special sessions?] upon uch appeal (178 to 180).
6 & 7 *Wm.* 4, *c.* 96, *s.* 7.

Appeal against the Rate—iii. *from Special to Quarter Sessions.*

178 If any person impugn the decision of such justices at special sessions (173);
and if such person,
within 14 days after such decision,
cause notice to be given in writing
of his intention of appealing against such decision,
and of the matter or cause of such appeal,

Poor's Rate

REMEDIES AGAINST RATES.

Litigious Remedies.

Appeal against Rate—iii. *from Special to Quarter Sessions*—continued.

to the person or persons in whose favour such decision was made;
and if he,
within five days after giving such notice,
enter into a recognizance before some 'one justice'
with sufficient sureties
conditioned to try such appeal at the then next general sessions or quarter sessions of the peace which may first happen, and to abide the order of, and to pay such costs as may be awarded by, the justices at such sessions, or any adjournment thereof,
THE JUSTICES at such general or quarter sessions
shall
receive such appeal
and hear and finally determine the same.

6 & 7 *Wm.* 4, *c.* 96, *s.* 6.

It is presumed that the above is the intention of the enactment. But the original is not expressed as a power of appeal, but only enumerates the conditions of the appeal, as conditions by which the finality of the decision of the justices at special sessions may be avoided (174).

a. THE OWNER of every rent-charge, payable instead of tithes,
shall
have the like right of appeal against any assessment containing a rate or charge upon any such rent-charge;
and the like power of prosecuting such appeal,
and the like remedies in respect thereof,
as any occupier or rate-payer may have in the case of poor's rate,
notwithstanding that such rate or charge is assessed upon the occupier (85),
and that the owner of the rent-charge is not mentioned by name in the assessment.

6 & 7 *Wm.* 4, *c.* 71, *s.* 70.

179 Upon all appeals made to 'justices,' at 'quarter sessions' holden for any 'county or place,' against judgments given or orders made by any justices of the peace,
THE JUSTICES so assembled at quarter sessions
shall
cause any defect of form
found in such original judgments or orders
to be rectified and amended
without any cost or charge to the parties concerned.
And after such amendment made,
THE SAID JUSTICES
shall
proceed in the matter as by law they should have done in case there had not been such defect or want of form in the original proceeding.

5 *Geo.* 2, *c.* 19, *s.* 1.

180 And THE JUSTICES at such general or quarter sessions,
upon hearing and finally determining such matter of appeal,

REMEDIES AGAINST RATES.

LITIGIOUS REMEDIES.

Appeal against Rate—iii. *from Special to Quarter Sessions*—continued.

shall and may,
according to their discretion,
award such costs,
to any party appealing
or appealed against,
as they may think proper,
6 & 7 *Wm.* 4, *c.* 96, *s.* 6.

181 And THE DETERMINATION of the justices at such general or quarter sessions, in or concerning the premises,
shall
be conclusive and binding on all parties to all intents and purposes whatsoever.
6 *m.* 4, *c.* 96, *s.* 6.

LEVY OF RATE.

ON INDIVIDUAL RATEPAYERS. 1. *ON PERSONS PRIMARILY LIABLE.*—before Appeal.

1. DEMAND.
2. PAYMENT.
3. COLLECTION.
4. ENFORCEMENT.

1. DEMAND.

201

After an allowance (134) and publication (138) the rate is due, *Charlwood* v. *Best*, 1 *Bott.*, 261; but it is not enforceable till after demand made, *Tracey* v. *Talbot*, 1 *Bott.*, 260. See Note on (218 *a*).

2. PAYMENT.

If a landlord, or any one on his behalf, tender payment for the occupier, it ought to be accepted, and no warrant of distress against the occupier should be granted, *R.* v. *Cozens*, 1 *Bott.*, 267.

203 If any person rated to any rates or cesses
within any district, ' parish, or hamlet,'

Although the general terms of this provision would extend it to all rates of districts not maintaining their poor, yet the power to consent to the excusal is only given to such officers as are found in places maintaining their poor. In places maintaining their poor, the general terms of the present clause, without the restriction involved in the description of the officers capable of giving their consent, would enable persons to be exempted from highway, county, borough, watching, and other local rates; but for want of persons competent to consent, no exemption from those rates could be obtained in places not maintaining their poor.

apply to any ' two justices ' acting for the ' county or place,'
and if he give proof to them
of his inablity, through poverty,
to pay such rate or cess,
and if the ' overseers,' or other person or persons competent to act under the authority of any Act or Acts of Parliament, for the ordering, managing, control, or direction of any such district, ' parish, or hamlet,'

POOR'S RATE.

LEVY OF RATE.

1. *ON PERSONS PRIMARILY LIABLE.*—i. before Appeal.

2. PAYMENT—*continued.*

This description indicates the intention of the Act to be, that those who manage the relief of the poor, and are therefore most capable of judging of the poverty of persons rated, shall give or withhold consent to the exemption, and thereby exercise an effectual *veto* on the exemption. If this be so, then when overseers have no longer the relief of the poor, as under the 22 *Geo.* 3, *c.* 83, or the 59 *Geo.* 3, *c.* 12, *s.* 2, and, as is mainly the case under the Poor Law Amendment Act, the power of consent would appear to be transferred to the 'guardians,' or select vestry who have the management of such relief.

It has however been considered by high authority that both the overseers and the guardians, or select vestry, have concurrent authority in the matter.

consent that the person so rated may be excused from payment,

SUCH JUSTICES

may

order and direct that such person be excused from the payment of such rate or cess,

and *may*

strike out his or her name therefrom.

54 *Geo.* 3, *c.* 170, *s.* 11.

3. COLLECTION.

205 If any 'two justices'

have directed that any person rated to any rate or cess be excused from the payment thereof

on account of poverty (203),

THE SUM at which such person was so rated in such rate or cess

shall not

thereafter be collected,

or any person or persons charged therewith.

54 *Geo.* 3, *c.* 170, *s.* 11.

4. ENFORCEMENT.

By Distress.

210 When any poor's rate has been made, allowed, and published (134, 138), and when demand of payment thereof has been made on any person assessed to such rate (201),

Tracey v. *Talbot*, 1 *Bott.*, 160.

if such person refuse to contribute according as he may be assessed,

43 *Eliz.*, *c.* 2, *s.* 5.

ANY ONE JUSTICE

may

summon such person to appear

before any two justices,

3 *Geo.* 4, *c.* 23, *s.* 2.

Although the 43 *Eliz.*, *c.* 2, and other poor law statutes, do not mention the summons, it is held that a summons must precede the warrant of distress, *R.* v. *Brown*, 1 *Bott.*, 269.

The 3 *Geo.* 4, *c.* 23, *s.* 2 enables one justice to issue the summons.

The summons may be served personally, or at the parties' usual residence.

The court of Queen's Bench will issue a mandamus to compel justices to hear complaints, and (*qy.*) to issue summonses, *R.* v. *Brown*, *supra.*

LEVY OF RATE.

1. *On Persons Primarily Liable.*—i. before Appeal.

Enforcement—*by Distress*—continued

215 (If such person refusing to contribute
do not appear to such summons (210),
or do not show good cause why a warrant should not be issued,)
ANY 'TWO JUSTICES'
may
issue their warrant
for levying the sums of money and all arrearages due from such person
by distress and sale of the offender's goods,
43 *Eliz.*, *c.* 2, *s.* 4.

Where the justices appear to act *bonâ fide*, in refusing a warrant of distress, the court of Queen's Bench will not generally issue a *mandamus* to compel them, *R.* v. *Hale*, 2 *Ad. & E.*, 606; *R.* v. *Justices of Bucks*, 3 *Nev. & Man.*, 68; *R.* v. *Somersetshire*, 4 *Nev. & Man.*, 394.

216 As well the present as subsequent 'overseers,'
or any of them,
may,
by warrant from any two 'justices,'
levy the sums of money, and all arrearages
by distress and sale of the offender's goods,

This distress is *in the nature of an execution*, and is not a pledge as the distress at common law was, *Bissert* v. *Caldwell*, 1 *Bott.*, 256, *note*; *Hutchin* v. *Chambers*, *ib.*, 264.

Thus the following things may be taken under this distress:—
wearing apparel, *ib.*;
tools of trade, *Edgecombe* v. *Sparks*, 1 *Bott.*, 256;
money, *East India Company* v. *Skinner*, *ib.*, 257;
beasts of the plough,
although there be other distrainable goods sufficient on the premises, *Hutchin* v. *Chambers*, *ib.*, 264.

Goods belonging to a corporation may be taken in respect of a rate made on remises in their occupation (77), *R.* v. *Gardner*, 1 *Bott.*, 167; *R.* v. *Aberaven*, 5 *East.*, 453; *R.* v. *Margate Pier Company*, 3 *B. & A.*, 220.

If a person die after the warrant is granted, the goods cannot be distrained in the hands of the administrator or *executor* until the latter has been summoned (210), *Wallis* v. *Hewit*, *Stevens* v. *Evans*, 1 *Bott.*, 265.

Where goods are of uncertain value, and enough has not been distrained at first, *a second levy* may be made under the same warrant to supply the deficiency, *Hutchin* v. *Chambers*, 1 *Bott.*, 264.

rendering to the party the overplus.
43 *Eliz.*, *c.* 2, *s.* 4.

217 If any person refuse or neglect to pay

This statute differs from the 54 *Geo.* 3, *c.* 170, *s.* 12, which only allows of a distress after a space of seven days has elapsed since a legal demand of payment.

to any overseer
any sum of money that he is legally rated or assessed to,
THE SUCCEEDING OVERSEERS
shall and may
levy such arrears.
17 *Geo.* 2, *c.* 38, *s.* 11.

218 The goods of any persons assessed and refusing to pay
may

POOR'S RATE.

LEVY OF RATE.

1. *ON PERSONS PRIMARILY LIABLE.*—i. before Appeal.

ENFORCEMENT—*by Distress*—continued.

be levied by warrant of distress,
not only in the place for which such assessment was made, but in any other place within the same 'county or place.'
17 *Geo.* 2, *c.* 38, *s.* 7.

a. If any person neglect or refuse to pay any sum of money legally assessed on, and due from him,
in respect of any rate
for the relief of the poor,
church cess,
or highway cess,
of any district, 'parish, or hamlet,'
for the space of seven days after the same has been legally demanded of him,

It is laid down, *East India Company* v. *Skinner*, 1 *Bott.*, 260, that in strictness "a warrant to distrain for a poor's rate ought not to be granted before a demand made." But there is nothing to prevent a warrant being granted when there are goods within the parish immediately after the demand, unless the words in the present statute, requiring the lapse of seven days between the demand and the warrant, extend to other cases besides those which it more immediately contemplates, namely, to those where no distress is to be found within the district, &c.

THE GOODS AND CHATTELS of such person
shall and may
be distrained
not only within such district, 'parish, or hamlet,'
but also within any other district 'parish or hamlet,'
within the same 'county or place.'
54 *Geo.* 3, *c.* 170, *s.* 12.

219 If sufficient distress cannot be found within the same 'county or place,' and if oath be tendered thereof before some justice of any other 'county or place,'
SUCH JUSTICE
shall
administer such oath
and certify the same under his hand
on the said warrant,
17 *Geo.* 2, *c.* 38, *s.* 7.
Semble, on the original warrant (218).

And thereupon SUCH GOODS (218)
may
be levied in such other 'county or place,'
by virtue of such warrant and certificate.
17 *Geo.* 2, *c.* 38, *s.* 7.

a. If sufficient distress cannot be found within the same 'county or place,' and if oath thereof be tendered before any 'one justice' of any other 'county or place' in which any of the goods and chattels of such person may be found,

LEVY OF RATE.

1. *On Persons Primarily Liable.*—i. before Appeal.

Enforcement—*by Distress*—continued.

SUCH JUSTICE
shall
administer such oath,
and *shall*
certify the same by indorsing in his hand-writing, his name on the warrant granted to make such distress;
And thereupon
THE GOODS and chattels of the person neglecting or refusing to pay as aforesaid,
shall
be subject and liable to such distress and sale
in such other 'county or place' where the same may be found,
and *may*,
by virtue of such warrant and certificate,
be distrained and sold
in the same manner as if the same had been found within the district, parish, or hamlet in and for which such rate or cess had been made or was due.

54 *Geo.* 3, *c.* 170, *s.* 12

By Commitment.

225 And in default of such distress
(within the parish (215))

This provision for commitment was made before the power was given to distrain out of the parish; and it appears, therefore, that if no distress be found *within the parish*, the defaulter may be committed, although there may be distrainable goods belonging to him elsewhere within the county, or in some other county.

ANY 'TWO JUSTICES'
may
commit such offender
to the common gaol of the county,
there to remain without bail or mainprise
until payment of the said sum and arrearages.

43 *Eliz.*, *c.* 2, *s.* 3.

ii. pending Appeal (226 to 227).

226 Notwithstanding that any person rated to the relief of the poor
have given notice of appeal against such rate,
for any cause whatever,

This does not exhaust the cases of appeal, inasmuch as the right of appeal is not confined to persons actually rated (154, 173, 178).

The provision ought to extend to all cases of appeal against rates by any persons whatsoever, whether rated or not rated.

nevertheless EVERY SUM OF MONEY at which any person may be rated therein,
shall and may
be levied and recovered
by distress (210 to 219),
and by all other lawful ways and means (225),

POOR'S RATE.

LEVY OF RATE.

1. *ON PERSONS PRIMARILY LIABLE.*—ii. pending Appeal—*continued.*

as if no such notice had been given.

41 *Geo.* 3, *c.* 23, *s.* 2.

This authorizes a distress notwithstanding the appeal. Perhaps it was intended to get rid of the previous restriction upon the power of distress, which was only applicable to recover sums of money legally assessed.

And justices constantly act on this provision as if, besides removing the obstacle of a pending appeal, it cured all illegality whatsoever in the rate. This view is apparently justified by the power to recover a rate even after it has been quashed (229 to 231).

It would, however, be desirable that the power of distraining for an unlawful rate should be more clearly expressed.

227 But if any person rated in any rate made for the relief of the poor
give notice of appeal
to the 'overseers' of any 'parish,' or any two of them,
NO PROCEEDING
shall
after the giving of such notice,
and until the appeal have been heard and determined,
be commenced or carried on
to recover any greater sum or sums of money
from such person
than the sum at which he
or any occupier of the same premises

This limit of the amount of rate recoverable while an appeal is pending, so far as the limit is to be ascertained by reference to the amount charged on a previous rate-payer, is inapplicable to all rate-payers but the *occupiers of premises.* To make this part of the protection complete, the words should be 'or any person rateable in respect of the same property.'

was rated in the last effective rate,
which has been collected in such parish.

41 *Geo.* 3, *c.* 23, *s.* 2.

iii. after Rate appealed against and amended.

228 If upon the hearing of any appeal against any rate,
the court order
the name of any person to be inserted therein, and him to be rated at any sum of money,
or order the sum, at which any person is therein rated, to be raised or increased
EVERY SUM OF MONEY at, or to which such person has been so ordered to be rated,
or which has been so ordered to be raised or increased,
or so much thereof as has not been already paid,
shall and may
be recovered,
in such and the same manner, by such and the same means,

By distress (210 to 219) and by commitment (225).

as if such person had been originally named in such rate,

LEVY OF RATE.

1. *On Persons Primarily Liable.*—iii. after Rate appealed against and amended—*continued.*

and rated therein at such sum of money.
41 *Geo.* 3, *c.* 23, *s.* 7.

iv. after Rate appealed against and quashed.

229 Notwithstanding any appeal against a rate,
(whether against the whole or any part thereof,)
and notwithstanding that such rate has upon such appeal been wholly quashed;

The meaning of the proviso is not quite clear. It certainly makes the rate recoverable, notwithstanding its being quashed. Its language is not so decisive as to the recovery pending the appeal.

nevertheless EVERY SUM OF MONEY by such rate charged on any person
shall and may
be levied and recovered
by such ways and means, and in such and the same manner

That is, by distress (210 to 219) and by commitment (225).

as if no appeal had been made against such rate.
41 *Geo.* 3, *c.* 23, *s.* 1.

230 And ALL AND EVERY SUM OF MONEY
which any person charged in any rate so appealed against may pay,
or which may be levied upon or recovered from him (210 to 225),
shall
be deemed and taken
as payments on account of the next effective rate or rates thereafter to be made for the relief of the poor of the same 'parish.'
41 *Geo.* 3, *c.* 23, *s.* 1.

231 But in case the court of general or quarter sessions,
upon appeal,
order any rate for the relief of the poor to be quashed,

This protection, in the case where a rate is quashed, is equivalent to the amendment of the rate, where a rate is only amended.

THE SAID COURT
may
order any sum or sums of money, by such rate charged on any person,
or any part of any such sum or sums
not to be paid.

If the court do not make this order, the rate must of course be recovered (226).

And then, and in every such case,
NO PROCEEDING (for the recovery of such sum or sums of money, or part thereof respectively)
shall,
after making such order,
be commenced.
Or if any proceedings have been commenced,
SUCH PROCEEDINGS
shall
be no further prosecuted, for the purpose of levying or enforcing the

Poor's Rate.

LEVY OF RATE.

1. *On Persons Primarily Liable.*—iv. after Rate appealed against and quashed—*continued.*

payment of any sum or sums which have been so ordered by the court not to be paid.

41 *Geo.* 3, *c.* 23, *s.* 3.

2. *On Persons Substituted.*

a. On Owners substituted for Occupiers.

232 Where 'owners' (83), being lessors of the actual occupiers of any houses, apartments, or dwellings,
are assessed to the rates for the relief of the poor, instead of such actual occupiers,
if the sum so assessed be not paid,
THE SAME
shall
be levied upon,
and PAYMENT thereof
shall
be enforced against such owners,
and their goods and chattels,
in like manner as rates for the relief of the poor may be by law levied and recovered, and payment thereof enforced upon and against any actual occupier.

59 *Geo.* 3, *c.* 12, *s.* 19.

By distress (210 to 219) and commitment (225).

233 Provided always that
(if the rate be not paid by such 'owner of every such house, apartment, or dwelling, and')
if any goods or chattels of any occupier
be found in and about the same,
SUCH GOODS and chattels of any such occupier
shall
be liable to be distrained and sold
for raising so much of any rate in arrea
as may have become due during the occupancy of such occupier,
to be ascertained in a summary way by the justices granting the warrant of distress;
so that in no case any greater sum be raised by distress of the goods and chattels of such occupier than may at the time of making such distress be actually due from such occupier for the rent of the premises.

59 *Geo.* 3, *c.* 12, *s.* 20.

a. And EVERY OCCUPIER PAYING any such rate,
or upon whose goods and chattels the same, or any part thereof, has been levied,
may
deduct the amount of the sum so paid or levied
(with the costs of levying the same)
out of the rent payable by him,
and SUCH PAYMENT (of rates)

LEVY OF RATE.

2. *On Persons Substituted.—a.* On Owners Substituted for Occupiers—*continued.*

shall
be a sufficient discharge to every such occupier for so much of the rent payable by him as he may have paid of such rate,
or as may have been levied on his goods and chattels, with the costs of levying the same.
59 *Geo.* 3, *c.* 12, *s.* 20.

b. On Occupiers of Land Substituted for owners of Tithe Rent-charge.

234 Where the rates and charges
to which any rent-charge payable instead of tithe is liable (40, 41, 56)
have been assessed upon the occupier of the lands out of which such rent-charge issues (85),
if such rates and charges be not paid by the owner of the rent-charge,
IT *shall be lawful*
to recover such rates and charges
from such occupier
in like manner as any poor's rate assessed on him in respect of such lands.
6 & 7 *Wm.* 4, *c* 71, *s.* 70.

a. And if any occupier holding such lands under any landlord
have paid any such rate or charge, in respect of any such rent-charge,
SUCH OCCUPIER
may
deduct the amount thereof from the rent next payable by him to his landlord for the time being,
and HE *shall*
be allowed the same in his account with his landlord.
And EVERY LANDLORD or owner in possession who has paid any such rate or charge,
or from whose rent any such rate or charge has been so deducted,
or who has allowed the same in account with any tenant paying the same,
shall
be entitled to deduct the amount thereof from the rent-charge,
or to recover the same by all other lawful ways and means,
from the owner of the rent-charge, his executors and administrators.
6 & 7 *Wm.* 4, *c.* 71, *s.* 70.

235 Where the rates and charges to which any rent-charge payable instead of tithes is liable (40, 41, 56)
have been assessed upon the owner of the rent-charge (86),
if the same have not been paid by the owner of the rent-charge;
and if notice in writing have been given to any one or more of the occupiers of lands out of which such rent-charge issues, twenty-one days previous to any one of the half-yearly days of payment of the rent-charge,
IT *shall be lawful*
to recover
from any one or more of such occupiers
in like manner as any poor's rate assessed on any such occupier may be recovered

Poor's Rate.

LEVY OF RATE.

2. *On Persons Substituted.*—*b.* On Occupiers of Land Substituted for Owners of Tithe Rent-charge—*continued.*

the whole or any part of any such rates or charges
not exceeding in amount at any one time the amount of rent-charge payable in respect of lands occupied by him in the same parish for the current half-year in which such notice was given.

1 *Vic.*, *c.* 69, *s.* 8.

a. And the collector's receipt for the payment of such rates and charges, or any part thereof,
shall
be received in satisfaction of so much of the rent-charge by the owner thereof.

1 *Vic.*, *c.* 69, *s.* 8.

But the occupier who will have paid the rate is not the person paying the rent-charge, and therefore cannot have the benefit of this power of recuperation unless his landlord will consent to take the receipt as so much rent. This power of recuperation, where the tithe-owner has been originally assessed, is obviously defective. What was wanted was a power of recuperation similar to that given when the occupier of the land has been originally assessed. See above (234).

COSTS OF LEVY.

237 Wherever the sum due in respect of any land tax, assessed taxes, poor's rates, church rates, tithes, highway rates, sewers' rates, or of any other rates, taxes, or impositions whatsoever, does not exceed the sum of 20*l.*;
and whenever the whole of the several sums sought to be levied by distresses, taken for different of the above purposes at the same time, does not exceed the sum of 20*l.*

The same protection against excessive and irregular charges is equally required wherever any distress is made, as in the cases here enumerated. The protection is extended to the case of distress for rent by the 57 *Geo.* 3, *c.* 93.

no person levying the same by distress,
or employed in any manner in making such distress,
or doing any act whatsoever in the course of such distress, or for carrying the same into effect,
shall
have, take, or receive,
out of the produce of the goods distrained upon and sold,
or from the person distrained on,
or from the person on whose behalf the distress is made,
or from any other person whatsoever,
any other or more costs and charges in respect of such distress, or any matter or thing done therein
than those following:—

	s.	*d.*
Levying distress	3	0
Man in possession per day	2	6

COSTS OF LEVY—*continued.*

Appraisement whether by one broker or more, 6*d.* in the pound on the value of the goods.

Stamp, the lawful amount thereof	*s.*	*d.*
All expenses of advertisements, if any such	10	0

Catalogues, sale and commission, and delivery of goods, 1*s.* in the pound on the net produce of the sale.

7 & 8 Geo. 4, *c.* 17.
57 Geo. 3, *c.* 93, *s.* 1.
Schedule to 57 Geo. 3, *c.* 93.

238 And NO PERSON
shall
make any charge whatsoever
for any act, matter or thing above mentioned
unless such act have been really done,

7 & 8 Geo. 4, *c.* 17.
57 Geo. 3, *c.* 93, *s.* 2.

Any person aggrieved (237, 238),
may apply to one justice.
One justice may adjudge treble the amount of the money unlawfully taken, to be paid with costs ;
to be levied by distress and sale.

7 & 8 Geo. 4, *c.* 17.
57 Geo. 3, *c.* 93, *s.* 1.

If complaint be unfounded,
justice may give costs to the party complained against.

7 & 8 Geo. 4, *c.* 17.
57 Geo. 3, *c.* 93, *s.* 4.

Justice may summon witnesses.

7 & 8 Geo. 4, *c.* 17.
57 Geo. 3, *c.* 93, *s.* 3.

Signature of the justice proof of judgment.

7 & 8 Geo. 4, *c.* 17.
57 Geo. 3, *c.* 93, *s.* 5.

Order of justices to be expressed to be made upon a complaint for a breach of the *57 Geo.* 3, *c.* 93, as amended by the *7 & 8 Geo.* 4, c. 17

7 & 8 Geo. 4. *c.* 17.

REMEDIES FOR UNLAWFUL DISTRESSES FOR RATES.

2. *Appeal.*

242 If any person find himself aggrieved by such distress as aforesaid (218, 219),
SUCH PERSON
may
appeal
to the next general or quarter sessions for the 'county' or 'place' where such assessment was made.
And THE 'JUSTICES' there
shall
hear
and finally determine the same.

17 Geo. 2, *c.* 38, *s.* 7.

Poor's Rate.

REMEDIES FOR UNLAWFUL DISTRESSES FOR RATES.

2. *Appeal*—continued.

243 Upon all appeals made to 'justices,' at 'quarter sessions,' holden for any 'county or place,' against judgments given or orders made by any justices of the peace,

This appears to apply in terms equally to appeals against rates (154), to appeals against distresses for rates, and to appeals against allowances or disallowances in accounts.

THE JUSTICES so assembled at quarter sessions
shall
cause any defect of form
found in such original judgments or orders
to be rectified and amended
without any cost or charge to the parties concerned.
And after such amendment made,
THE SAID JUSTICES
shall
proceed in the matter as by law they should have done in case there had not been such defect or want of form in the original proceeding.

5 *Geo.* 2, *c.* 19, *s.* 1.

3. *Actions.*

246 If any court of quarter sessions, upon appeal, have ordered any rate for the relief of the poor to be quashed (167),
and if such court have ordered any sum of money, by such rate charged on any person, not to be paid (231),
and if any proceedings, for levying or enforcing payment of such sum have been commenced before such last-mentioned order,
NO 'JUSTICES' OF THE PEACE,
constable, or other officer of the peace, or other person,
shall
be deemed a trespasser,
or liable to any action
for any warrant granted, order made, act executed, or thing done, for the purpose of levying or enforcing payment of such sum
before he had notice in writing of the order of the court for the non-payment of such sum.

41 *Geo.* 3, *c.* 23, *s.* 3.

247 Where any sum of money is justly due for the relief of the poor,
and any distress is made for such sum,
and there is any defect
or want of form
in the warrant for the appointment of overseers,
or in the rate or assessment,
or in the warrant of distress thereupon.
nevertheless THE DISTRESS itself
shall not
be deemed unlawful,
nor shall
any party making it be deemed a trespasser,

REMEDIES FOR UNLAWFUL DISTRESSES FOR RATES.

3. *Actions*—continued.

on account of such defect or want of form.
17 *Geo.* 2, *c.* 38, *s.* 8.

248 Where any sum of money is justly due for the relief of the poor,
and distress is made for the same,
and the party distraining afterwards commits any irregularity,
nevertheless THE PARTY SO DISTRAINING
shall not
be deemed a trespasser *ab initio* on account of such irregularity.
17 *Geo.* 2, *s.* 38, *s.* 8.

a. But THE PARTY AGGRIEVED by such irregularity
may
recover full satisfaction for the special damage he has sustained thereby,
and no more,
in an action of trespass, or on the case,
at the election of the plaintiff.
17 *Geo.* 2, *c.* 38, *s.* 8.

b. And if he recover in such action,
HE *shall*
be paid his full costs of suit,
and *shall*
use the like remedies to recover the same as in other cases of costs.
17 *Geo.* 2, *c.* 38, *s.* 9.

c. But if tender of amends hath been made by the party distraining
before such action brought,
NO PLAINTIFF
shall
recover in any action for any such irregularity.
17 *Geo.* 2, *c.* 38, *s.* 10.

OFFICERS.

Overseers.

265 THE OVERSEERS of the poor (16)
43 *Eliz.*, *c.* 2, *s.* 1; 17 *Geo.* 2, *c.* 38, *s.* 15.
of every parish,
43 *Eliz.*, *c.* 2, *s.* 1.
township and village (11),
13 & 14 *Car.* 2, *c.* 12, *s.* 17; 17 *Geo.* 2, *c.* 38, *s.* 15.
shall
raise competent sums of money, &c., for the relief of the poor (28),
43 *Eliz.*, *c.* 2, *s.* 1; 13 & 14 *Car.* 2, *c.* 12, *s.* 17; 17 *Geo.* 2, *c.* 38, *s.* 15.
provide proper books and enter the rates therein (131),
and publish (138),
gather,
43 *Eliz.*, *c.* 2, *s.* 1.
and levy the same (201 to 235).
When any appeal is to be heard or determined (?) at any general or
quarter sessions,

POOR'S RATE.

OFFICERS.

Overseers—continued.

THE OVERSEERS (for the time being)
shall
produce at such sessions
true and just copies of all rates made for the relief of the poor,
(whether made by the present overseers, or delivered to them by their predecessors) (131).
17 *Geo.* 2, *c.* 38, *s.* 13.

When all appeals against any rate for the relief of the poor have been determined,

If there be more than one appeal, the overseers should not make out the new copies until the last of these appeals is determined.

THE 'OVERSEERS
shall
provide a proper book,
and *shall*
take care
that, within 14 days after such determination,
a true and just copy of such rate
be fairly wrote and entered in such book,
and *shall*
attest the same
by putting their names thereto.
17 *Geo.* 2, *c.* 38, *s.* 13.

This evidently does not apply to rates quashed on appeal (167), nor to the new rate to be made after a previous one has been quashed (*ib.*), inasmuch as such new rate is not a rate *the appeal against which has been determined.*

The provision therefore can only apply to rates amended on appeal (162, 163, 173, 179).

These rate-books are to be kept open to the inspection of all persons assessed, or liable to be assessed (139), and are to be produced on future appeals (161, 270).

Where upon any appeal from the whole rate the court has quashed the same (167),
and the 'justices' have ordered and directed the overseers to make a new and equal rate,
THE OVERSEERS
shall
make a new and equal rate accordingly.
17 *Geo.* 2, *c.* 38, *s.* 6.

If any 'overseer' be negligent in his office,

Viz.—If he neglect to make or levy rates, *s.* 1; or if he neglect to render his accounts, *s.* 2; or to pay over his balance, *s.* 2.

HE *shall*
forfeit for every default or negligence 20*s.*
43 *Eliz.*, *c.* 2, *s.* 2.

If any 'overseer'
or other officer of any parish
neglect or refuse to obey and perform any of the orders and directions of this Act,

OFFICERS.

Overseers—continued.

Viz.—Making up and rendering accounts and balances 14 days after the expiration of their office, *s.* 1, *post* (277 *a*).
The same on removing out of the parish *s.* 3 (277 *b*).
Preserving copies of accounts, *s.* 1 (284).
Allowing inspection of accounts, *s.* 1 (285).
To make fair copies of rates, *s.* 13 (165).
To keep rate-books for public perusal, *s.* 13 (139).
To levy arrears of preceding overseers' rates (217), and reimburse their predecessors, *s.* 11 (294).

or act contrary thereto;
and if oath thereof be made, within two calendar months after the commission of the offence, before any 'two justices,'
SUCH 'OVERSEER' or officer
shall
for every offence
forfeit a sum not exceeding 5*l.* nor less than 20*s.*,
for the use of the poor of such 'parish,'
to be levied by warrant of such 'justices,'
by distress and sale of the offender's goods.
17 *Geo.* 2, *c.* 38, *s.* 14.

And SUCH SUM
shall
be paid to some churchwarden or overseer of the parish
for the use of the poor thereof.
17 *Geo.* 2, *c.* 38, *s.* 14.

Assistant Overseers.

a. THE INHABITANTS of any 'parish,' in vestry assembled,
may
nominate and elect any discreet person
as assistant overseer of the poor of such parish,
and determine the duties to be by him executed and performed:
and fix such yearly salary for the execution of the said office
as may by such inhabitants in vestry be thought fit;
And thereupon
ANY 'TWO JUSTICES'
may
appoint any person so nominated and elected
to be assistant overseer of the poor.
And EVERY PERSON SO APPOINTED assistant overseer
is hereby authorized and empowered
to execute all such of the duties of the office of overseer
as *may* in the warrant for his appointment be expressed.
59 *Geo.* 3, *c.* 12, *s.* 7.

The assistant overseer may be invested with any of the duties of overseers of the poor, many of which duties have now no connexion with the poor or the poor's rate. Amongst his duties, the making, publishing, collecting, and levying rates, and the making up of the overseers' accounts, are most frequently included.

Surveyors and Valuers.

b. When a survey, map, or valuation has been ordered (99),

POOR'S RATE.

OFFICERS.

Surveyors and Valuers—continued.

THE GUARDIANS
may
appoint a fit person, or fit persons,
for making such survey, map, or plan.
6 & 7 *Wm.* 4, *c.* 96, *s.* 3.

Collectors.

C. Where a select vestry is appointed under the 59 *Geo.* 3, *c.* 12.,
SUCH SELECT VESTRY
shall
inquire into
and superintend
the collection
of all money to be raised by the poor's rate,
and of all other funds and money raised, or applied by the parish, to the relief of the poor.
59 *Geo.* 3, *c.* 12, *s.* 1.

Wherever the 'Poor Law Commissioners'
have made and issued any order under their hands and seal,
by which the said Commissioners have directed
the overseers or guardians
of any parish or union
to appoint any person to collect the rates for the relief of the poor in any parish or parishes,
or have defined, or specified, or directed
the execution of the duties of such persons,
or the places or limits within which the same are to be performed,
or the mode of appointment,
or the continuance in office,
or the dismissal of any such person from his office,
or the amount or nature of the security to be given by any such person,
or have regulated the amount of salary payable to any such person,
or the time, or mode, or proportions of payment thereof,
if such orders have not
before the 6th day of May in the year 1839
been rescinded by the said Commissioners,
or quashed,
SUCH ORDERS
shall
be deemed,
and the same are hereby declared
to have the same force and validity
as if the same had been warranted by an Act, &c. (4 & 5 *Wm.* 4, *c.* 76. The Poor Law Amendment Act.)
2 & 3 *Vic.*, *c.* 84, *s.* 2.

And EVERY PERSON APPOINTED by guardians of the poor
under any such order of the said Commissioners
shall
have the like powers,

OFFICERS.

Collectors—continued.

authorities,
privileges,
immunities,
protections,
and remedies
in and for the performance of his duties under such order
as are by law given to 'overseers' in the performance of the like duties.
2 & 3 *Vic.*, *c.* 84, *s.* 2.

And THE SAID COMMISSIONERS
shall
have the same powers and authorities with respect to all such orders,
and to the persons appointed in pursuance thereof,
as they have with respect to orders made and issued,
and the officers appointed
under the provisions of the said Act.
2 & 3 *Vic.*, *c.* 84, *s.* 2.

Justices for Allowance of Rates.

d. If the 'parish' be in a county,
'TWO JUSTICES,'
whereof one to be of the *quorum*,
dwelling in or near the division where the 'parish' doth lie,
shall
allow the rate (134).
43 *Eliz.*, *c.* 2, *s.* 1; 13 & 14 *Car.* 2, c. 12, *s.* 17.

Or if the 'parish' be wholly within an exclusive jurisdiction,
'TWO JUSTICES' of that jurisdiction
shall
allow the rate.
43 *Eliz.*, *c.* 2, *s.* 8.

Or if a parish lie within two places of concurrent jurisdiction,
'TWO JUSTICES' of either jurisdiction, or one of the one jurisdiction and one of the other,
shall
allow the rate.
43 *Eliz.*, *c.* 2, *s.* 8.

Or if a parish lie within two places of exclusive jurisdiction,
'TWO JUSTICES' at least of each such jurisdiction
shall
allow the rate.
43 *Eliz.*, *c.* 2, *s.* 9.
2 *Lord Raym.* 798; *R.* v. *Gordon*, 1 *B. & A.*, 524; *R.* v. *Folly*, 1 *Bott.*, 86; *R.* v. *Kynaston*, 2 *East.*, 118.

For making, publishing, collecting and levying Rates in Unions for Rating.

Guardians.

e. In every union for rating (125)
THE GUARDIANS
shall,

POOR'S RATE.

OFFICERS.

Guardians—continued.

under such regulations as the Poor Law Commissioners may in that respect prescribe,
ascertain
and assess

To assess the value of property, probably means more in this place than to ascertain or estimate the value, and seems to indicate the intention that the guardians should assess the rate on the rate-payers, *i. e.*, make the rate. Unless this is so, the rate would still be left to be made by the overseers of the several parishes, a course not very consistent with the object of *raising in common* the necessary funds for relief of the poor,—*see* § 34 and (125).

If the overseers were still to make the rates, it would be necessary that they should be informed by the guardians of the proportion of the rate to be raised in their parish, somewhat in the manner in which they are informed of the proportion they are to pay of the county rate.

If the guardians are to make the rate and collect it, there would still remain a difficulty as to their liability in respect of county rate, and other expenditure of poor's rate not connected with the relief of the poor.

the value of the property rateable to the relief of the poor
in the several parishes of the union,
and *shall*
cause to be made
such surveys and valuations of the said property, or any part thereof,
as may be necessary from time to time for making a fair and just assessment upon the united parishes.

4 & 5 *Wm.* 4, *c.* 76, *s.* 35.

And THE EXPENSE of every such valuation
shall
at all times
be a charge on the common rates of such parishes.

4 & 5 *Wm.* 4, *c.* 76, *s.* 36.

And THE RATES MADE
in every such union,
shall
be made,
allowed (134),
published (138 to 145),
and recovered (201 to 235),
in such and the same manner as rates for the relief of the poor are now by law made, allowed, published, and recovered.

4 & 5 *Wm.* 4, *c.* 76, *s.* 35.

But it would seem, from the previous words in the clause requiring guardians to *assess the value* of property rateable to the poor, that it is the guardians of the union and their officers, not the overseers, who are to make, publish, and receive the rates. *See remark of Pattison J., in R.* v. *Poor Law Commissioners*, 2 *P. & D.*, 323.

Perhaps it is with a view to avoid a difficult question as to what justices should allow a *union rate* (134), and should issue warrants for its recovery (215), that the power to form unions for rating is confined to such unions as are under the jurisdiction of the same justices (125)—a limitation otherwise without apparent object.

ACCOUNTS.

Nothing can be more confused than the law upon the subject of accountability for the funds applicable to the relief of the poor. Accountability is a matter, from the difficulties inherent in it, and the interest which parties have in evading or defeating their responsibilities, which requires peculiarly definite and intelligible precepts. These, however, are neither supplied by the statute law nor by the decisions on the subject.

As regard the statute law, to give effect to which is the appropriate duty of the judge and the object of all judicial decisions, its provisions are so indefinite, multifarious, and confused, that it has in a great measure defied the interpretation of the courts, and has rendered obedience by any officers for the most part impossible.

To instance merely its useless multifariousness:—

In the first place, there are three different general accounts to be rendered: *First*, under the 43 *Eliz.* (not repealed, *R.* v. *Middlesex*, 1 *W. G.*, 125), before two justices, within four days after the end of the overseer's year. *Secondly*, under the 17 *Geo.* 2, *c.* 38, *s.* 1, a more formal account before justices at special sessions, within 14 days after new overseers are appointed. *Thirdly*, under the 4 & 5 *Wm.* 4, *c.* 76, *s.* 47, an account additional to the preceding, still more detailed and extensive, is to be rendered to justices, guardians, or paid auditors, once at least in every quarter.

These are not all the accounts to be rendered, for in certain cases special accounts are also to be rendered of different matters, in different forms, at different periods, and to different auditors, as, for instance, under the 5 *Geo.* 1, *c.* 8, *s.* 2, an account is to be rendered to quarter sessions of moneys recovered from husbands and parents for support of wives and children, and under the 9 *Geo.* 4, *c.* 40, *s.* 44, an account is to be rendered to quarter sessions of moneys recovered by seizure and sale of property of insane persons relieved at the expense of the poor rates.

In the next place, the persons to account are different: *First*, under the 43 *Eliz.* and the 17 *Geo.* 2, it is only the 'overseers,' or their administrators or executors. *Secondly*, under the 4 & 5 *Wm.* 4, it is every person whatever who has the receipt, custody, or disposal of money or property.

In the next place the matter of the account is different in each case: *First*, under the 43 *Eliz.*, it may be an account of gross sums. *Secondly*, under the 17 *Geo.* 2, it must be more detailed. *Thirdly*, under the 4 & 5 *Wm.* 4, it must be still more specific and extensive.

In the next place the auditors are different in each case: *First*, under the the 43 *Eliz.*, two justices. *Secondly*, under the 17 *Geo.* 2, and 50 *Geo.* 3, *c.* 49, *s.* 1, two justices at a *special* sessions. *Thirdly*, under the 4 & 5 *Wm.* 4, guardians, or special auditors, or, in default of these, justices at *petty* sessions.

In the next place, the duties of the auditors of these several accounts are different: *First*, under the 43 *Eliz.*, there is no power of amendment. *Secondly*, under the 17 *Geo.* 2, 50 *Geo.* 3, and 4 & 5 *Wm.* 4, there is a power of insertion and reduction.

In the next place the remedies to correct the audit vary: *First*, under 43 *Eliz.* and 17 *Geo.* 2, there is an appeal. *Secondly*, under the 4 & 5 *Wm.* 4, there is no appeal.

In the last place, the executory remedies for compelling payment of balances are different.

The result of these discrepancies and of a multitude of others, many of which in their details are much more difficult of reconciliation than the above, is that no combined statement can possibly be made applicable to the whole subject of these accounts.

PERSONS LIABLE TO ACCOUNT.

266 The 'overseers' *shall*,

POOR'S RATE.

PERSONS LIABLE TO ACCOUNT—*continued.*

within four days after the end of their year and after other overseers nominated,
make and yield up to 'two justices'
a true and perfect account,
43 *Eliz.*, *c.* 2, *s.* 2.
and *shall*,
within 14 days after other overseers are nominated and appointed to succeed them,
deliver in to the succeeding overseers
a just, true, and perfect account of all things concerning their office verified on oath,
17 *Geo.* 2, *c.* 38, *s.* 1.
before 'two justices' at a special sessions to be holden within the said 14 days.
50 *Geo.* 3, *c.* 49, *s.* 1.

a. EVERY PERSON
having the collection, receipt, or distribution
of the moneys assessed for the relief of the poor
in any 'parish' or 'union;'
or holding,
As, for example, the persons with whom parish books and papers may be deposited under the 58 *Geo.* 3, *c.* 69, *s.* 6.
or accountable for
Executors and administrators of overseers are included by these words. See 17 *Geo.* 2, *c.* 38, *s.* 3.
any balance or sum of money,
or any books, deeds, papers, goods or chattels relating to the relief of the poor, or the collection or distribution of the poor's rate in any 'parish' or 'union,'
shall
make and render
a full and distinct account
in writing
of all moneys, matters, and things committed to their (his) charge,
or received, held, or expended by them (him)
on behalf of any such parish or union.
4 & 5 *Wm.* 4, *c.* 76, *s.* 47.

The most comprehensive description of the persons liable to account is that given above from the 4 & 5 *Wm.* 4, *c.* 76, *s.* 47, which, besides all the persons occasionally made accountable under other statutes, includes others who never were before required to account.

Persons liable to Account.

1. '*Overseers*' were required to account for all things concerning their office by the 43 *Eliz.*, *c.* 2, *s.* 1; 17 *Geo.* 2, *c.* 38, *s.* 1; 50 *Geo.* 3, *c.* 49, *s.* 1; they were required to account for certain moneys recovered from fugitives by the 5 *Geo.* 1, *c.* 8, *s.* 1.

2. The executors and *administrators of* '*overseers*,' 17 *Geo.* 2, *c.* 38, *s.* 3.

3. *Assistant overseers*, if liable to account before the 4 & 5 *Wm.* 4, *c.* 76, were only so by implication.

4. *Paid Collectors* were sometimes made so under local Acts.

5. *Select vestries* by custom usually lay their accounts periodically before an open vestry.

PERSONS LIABLE TO ACCOUNT—*continued.*

Select vestries under the 59 *Geo.* 3, *c.* 12 (*Sturges Bourne's Act*), *s.* 3, are required to lay their accounts before the inhabitants twice a-year.

Select vestries under the 1 and 2 *Wm* 4, *c.* 60 (*Hobhouse's Act*), *s.* 32, are required to keep accounts of moneys received and disbursed to be open to vestrymen and ratepayers. Auditors of accounts are provided for by *s.* 32. The vestry likewise publish annually a list of parish estates, charitable foundations and bequests, and the rental and appropriation of each (*s.* 39).

6. *Guardians* under the 22 *Geo.* 3, *c.* 83 (*Gilbert's Act*), did not account. But the treasurer was to produce a monthly account of the workhouse expenses, *ss.* 12, 24, which the guardians were to sign, if they agreed to it, which was afterwards to be inspected and allowed by the visitor.

If the treasurer and guardians disagreed, the visitor was to adjust the accounts, *s.* 10.

The whole of this system was not properly a system of accounts, but merely a contrivance for setting the proportions of the common workhouse expenditure, to be charged on each several parish.

The overseers' accounts, however, are under this statute to be examined monthly by the guardians, and to be examined and passed quarterly by the visitor, after verification on oath before a justice of the peace, *s.* 8.

The 4 & 5 *Wm.* 4, *c.* 76, *s.* 47 (*The Poor Law Amendment Act*), includes,—

7. *Every officer whatsoever*, and

8. *Every private person whatsoever*, in any way concerned in the receipt, custody, or disbursement of any rates, moneys, or goods, or property, or matters, or things whatsoever relating to the relief of the poor.

MATTER OF ACCOUNT.

1. *Receipts.*
2. *Payments.*
3. *Balances.*

The expressions of the statutes as to the matter of the accounts required are very meagre. The most complete expression is the following:

267 All moneys,
matters,
and things committed to the charge of the accountant (266 *a.*),
or received
(or to be received),

See 43 *Eliz*, *c.* 2, *s.* 1, and 17 *Geo.* 2, *c.* 38, *s.* 1. "All sums of money by them received, or rated, and sessed, but not received."

held,
or expended by him
on behalf of the 'parish' or 'union,'

4 & 5 *Wm.* 4, *c.* 76, *s.* 47.

The matter of account, or what a person has to account for, depends of course upon his functions with respect to the property to be accounted for. But generally every complete account, or systematic combination of accounts, will show:—

a. Receipts.

1. What ought to be received.
2. What has been received.
3. The difference of the foregoing, if these differ, *viz.*, What has not been received.

b. Payments.

4. What ought to be paid.
5. What has been paid.

Poor's Rate.

MATTER OF ACCOUNT—*continued.*

c. Balance due from the Accountant.

6. The result of the 2nd and 5th. What the party accounting is still to be held liable for.

The whole of these particulars should be shown in the accounts of overseers and assistant overseers with respect to rates, to moneys recoverable for support of bastards, to moneys advanced as loans, to rents and other incomes due to the parish and applicable to the purposes of the poor's rate.

Collectors should also show the whole of these with regard to what they have to collect.

Treasurers will only show the 2nd, 5th, and 6th.

Mere bailees, depositaries of money, goods, papers, &c., will usually only show the 2nd and 6th.

The principle is the same where the property to be accounted for is other than money, though in this case the details of the account will usually be more simple.

1. *Receipts.*

Authority to Receive.

The first head of accountability is for *Receipts.*

No statute contains any precept applicable to this head of accountability. Decisions of courts of law are almost as silent. The following considerations, however, are deducible from the enactments which will be found in the subsequent parts of the summary.

First, *What ought to be received.*

This is material whenever loss may be incurred by the public, through the officer not pursuing the authority vested in him, as by his omission to collect or levy rates, or to compel repayment of loans, &c.

An ignorant officer rarely knows the extent of the authority he is bound to pursue, and a negligent or dishonest one will be tempted to keep it out of view in rendering his account. This information should therefore always be secured in some way independent of the information to be procured from the accountant himself.

Account for Receipts without special authority to receive.

The person accounting may merely be a bailee or depositary of property having no special authority to collect or receive. In this case he is only accountable for what he has in fact received.

Account for receipts with special authority to receive.

Where the accountant has a special authority to receive, he is bound to use and pursue his authority so as to prevent loss to the fund for the protection of which that authority has been given to him.

In this case therefore the accountant is not only liable for what *he has* received; but is also liable for what *he has not* received, if the non-receipt has occurred through abandonment, neglect, or abuse of his authority.

The chief *authorities for receipts* are,

1. The statutes relating to the collection and levy of poor's rates (201 to 235).
—including 1*s.* annually from every elector under the "Act to Amend the Representation."
2 *Wm.* 4, *c.* 45, *s.* 56.
2. The statutes for recovery of balances and property in the hands of preceding officers, &c. (292).
3. The statutes for reimbursement to the poor's rates of moneys expended, as—
—for maintenance by fathers and mothers of their children at any age,
43 *Eliz.*, *c.* 2, *s.* 7.
59 *Geo.* 3, *c.* 12, *s.* 26.
4 & 5 *Wm.* 4, *c.* 76, *s.* 78.
—for maintenance by grandfathers and grandmothers of their grandchildren at any age;
Ib.

MATTER OF ACCOUNT.

1. *Receipts*—Authority to Receive—*continued.*

—for maintenance by children of their fathers and mothers;
Ib.

—for repayment by mothers and fathers of bastards of relief administered to bastards born before the 14th August, 1834;
18 *Eliz.*, *c.* 3, *s.* 1.

—for repayment, under orders, by putative fathers, of relief afforded to bastards born since the 14th August, 1834;
4 & 5 *Wm.* 4, *c.* 76, *s.* 72.

—for repayment of relief advanced by way of loan,
to the party himself;
59 *Geo.* 3, *c.* 12, *s.* 29.
4 & 5 *Wm.* 4, *c.* 76, *ss.* 58, 59.

to his wife;
4 & 5 *Wm.* 4, *c.* 76, *ss.* 56, 58, 59.

to a man's children under 16;
Ib.

to step-children, legitimate or illegitimate, if the man has married since the 14 August, 1834;
Ib.

to a widow's family;
4 & 5 *Wm.* 4, *c.* 76, *ss.* 56, 58.

to a woman's bastard born since the 14th August, 1834;
Ib., *s.* 71, 58.

—for reimbursement of relief to pensioners or their families by attachment of army and navy pensions, superannuations, &c.;
2 & 3 *Vic.*, *c.* 51.

—for reimbursement of relief to families of persons running away, or of persons threatening to run away, under sureties;
7 *Jac.* 1, *c.* 4, *s.* 8.

—for reimbursement of relief to families of persons running away—by seizure and sale of goods and chattels, or receipt of rents and profits of lands;
5 *Geo.* 1, *c.* 8, *s.* 1.

—for providing for and bringing up of wife or children of persons running away, by seizure and sale of goods and chattels, and receipt of rents and profits of land;
Ib.

—for reimbursement of relief afforded to an insane person, out of his estate, goods, chattels, lands, or tenements;
9 *Geo.* 4, *c.* 40, *s.* 44.

—for recovering from masters of apprentices, or their executors or administrators, the costs of the maintenance and clothing of apprentices, and for the reimbursement of overseers;
32 *Geo.* 3, *c.* 57, *ss.* 6, 11, & 12.

—for recovering from other parishes of costs of relief under orders of removal;
4 & 5 *Wm.* 4, *c.* 76, *s.* 84.

or under suspended orders of removal;
Ib.
35 *Geo.* 3, *c.* 101, *s.* 2.
49 *Geo.* 3, *c.* 124.

—a sum to be allowed out of the county rates
in aid of the poor's rates
of the 'parish' or 'place'
providing a militia man

POOR'S RATE.

MATTER OF ACCOUNT.

1. *Receipts*—Authority to Receive—*continued.*

in the room of one appointed sergeant, corporal, or drummer.
42 *Geo.* 3, *c.* 90, *s.* 58.

4. Statutes giving costs to the 'parish' where successful in various cases of litigation, as:—

costs on appeals against poor's rates;
17 *Geo.* 2, *c.* 38, *s.* 4.

costs in appeal or orders of removal;
4 & 5 *Wm.* 4, c. 76, *s.* 82, 83.

costs of distress for poor's rates;
27 *Geo.* 2, *c.* 20.

costs of enforcing penalties applicable to the poor.
18 *Geo.* 3, *c.* 19. *s.* 2.

5. Statutes directing the unapplied residue of other rates to be applied as poor's rates, as—

—the overplus of the militia rate;
42 *Geo.* 3, *c.* 90, *s.* 42.

—the residue of Lighting Rates, Watching Rates, &c., when the provisions of the Acts are abandoned in any 'parish.'
3 & 4 *Wm.* 4, *c.* 90, *s.* 15.

6. Very numerous statutes directing pecuniary penalties or forfeitures to be paid for the use of the poor.

These penalties could not be enumerated without an examination of the body of the statutes from the reign of Elizabeth to the present time. The following are but a few of them:—

Penalties

5*l.* on 'justices' for not appointing overseers;
43 *Eliz.*, *c.* 2, *s.* 10, 12.
13 & 14 *Car.* 2, *c.* 12, *s.* 22.

20*s.* on 'overseers' for not meeting;
43 *Eliz.*, *c.* 2, *s.* 2, 11.
13 & 14 *Car.* 2, 11, *s.* 12.

5*l.* on 'overseers' for bringing into account moneys given to persons not registered in the collection book;
9 *Geo.* 1, *c.* 7, *s.* 2.

5*l.* on 'overseers' for every disobedience of the directions of the 17 *Geo.* 2, *c.* 38, as to rates and overseers' accounts;
17 *Geo.* 2, *c.* 38, *s.* 14.

20*s.* a-month on relations for not maintaining their relations;
43 *Eliz.*, *c.* 2, *s.* 7, 11.

40*s.* on constables and officers neglecting duty or neglecting to discharge lawful orders of justices;
33 *Geo.* 3, *c.* 55, *s.* 1.

50*l.* on persons not delivering up, or depositing, vestry-books, rate-books, agreements, accounts, vouchers, certificates, documents, orders, writings, or papers;
58 *Geo.* 3, *c.* 69, s. 6.

50*l.* on persons destroying, obliterating, or injuring the same, &c.;
Ib.

one half of 100*l.* on persons acting as justices, not being qualified;
18 *Geo.* 2, *c.* 20, *s.* 3.

Penalties enacted by the County Lunatic Asylum Act;
9 *Geo.* 4, *c.* 40, *s.* 59.

MATTER OF ACCOUNT.

1. *Receipts.*—Authority to Receive—*continued.*

Penalties enacted by the Poor Law Amendment Act
4 & 5 *Wm.* 4, *c.* 76, *s.* 99.

10*l.* on any person neglecting to keep, notify, and publish the orders of the Commissioners;
4 & 5 *Wm.* 4, *c.* 76, *s.* 18.

5*l.* on overseers disobeying orders of justices for relief in urgent cases or illness;
4 & 5 *Wm.* 4, *c.* 76, *s.* 54.

one half of 5*l.* on officers supplying, for profit, goods ordered as relief;
4 & 5 *Wm.* 4, *c.* 76, *s.* 77.

10*l.* on persons introducing spirituous or fermented liquors into workhouses;
4 & 5 *Wm.* 4, *c.* 76, *s.* 92.

20*l.* on master of workhouse introducing spirits or fermented liquors;
4 & 5 *Wm.* 4, *c.* 76, *s.* 93.

20*l.* on master of workhouse misconducting himself towards any inmate of the workhouse;
Ib.

10*l.* on master of workhouse for not hanging up copies of *ss.* 92 & 93 of Poor Law Amendment Act;
4 & 5 *Wm.* 4, *c.* 76, *s.* 94.

5*l.* on officers disobeying orders of justices and guardians under the Poor Law Amendment Act;
4 & 5 *Wm.* 4, *c.* 76, *s.* 95.

20*l.* and treble value of the property, on overseers and paid officers purloining, embezzling, or misapplying moneys, goods or chattels of any parish or union;
4 & 5 *Wm.* 4, *c.* 76, *s.* 97.

2*l.* first offence, 20*l.* second offence, on persons disobeying orders of the Poor Law Commissioners;
4 & 5 *Wm.* 4, *c.* 76, *s.* 98.

5*l.* first offence, 20*l.* second offence, on persons guilty of contempt of the Board of Commissioners.
Ib.

7. Contracts entitling the parish to the receipt of money or other benefit, as—
bonds and securities given by contractors, or by paid officers, as by assistant overseers, under the
59 *Geo.* 3, *c.* 12, *s.* 7.

bonds given for security or indemnity of the parish against charge for relief, as bastardy bonds, and bonds under the
7 *Jac.* 1, *c.* 4, *s.* 8.

sale of parish or union property,
59 *Geo.* 3, *c.* 12, *s.* 9.
5 & 6 *Wm.* 4, *c.* 69.

letting of parish lands,
59 *Geo.* 3, *c.* 12, *s.* 13.

contracts by which the parish is entitled to rent or other compensation for the occupation or use of any property.

8. Gifts, grants, bequests, demises, &c.
of estates,
rent-charges,
stock,
annuities,

Poor's Rate.

MATTER OF ACCOUNT.

1. *Receipts.*—Authority to Receive—*continued.*

and other properties, and funds applicable to the relief of the poor, or in diminution of the poor's rates. See (268).

At one time a very considerable revenue was, and a much larger ought to have been, enjoyed by parishes in respect of properties of this class.

9. The right of the parish or union to the benefit of *any property* vested in the persons enumerated as liable to account (266); but which may be in the possession of any person without authority, or whose authority to hold them has ceased, as—

to recover stock and materials in the hands of the poor in order to be wrought;

43 *Eliz.*, *c.* 2, *s.* 1.
17 *Geo.* 2, *c.* 38, *s.* 1.

to recover possession of parish lands, houses, &c., from occupiers;

59 *Geo.* 3, c. 12, s. 24, 25.
5 & 6 *Wm.* 4, *c.* 69, *s.* 5.

to recover and hold, where ordered by the vestry, books, papers, &c., (268 *b.*).

58 *Geo.* 3, *c.* 69, *s.* 6.

10. The direction of the inhabitants in vestry for the keeping and depositing of parish books, accounts, documents, &c. See (268 *b.*).

Secondly, *What has been received.*

This will show whether the authority of the accountant to receive has been duly pursued.

It may generally be assumed, except where some excess of authority has occurred, that where the amounts to be received, and the amounts admitted to have been received, are the same, the authority has been fully pursued, and the accountant is so far acquitted of default or excess. Where the second amount is less than the first, the accountant is bound to show either that the difference is not owing to his default in enforcing his authority, or to concealment of his actual receipts. Where the receipts admitted exceed the amount which ought to be received—a rare case, but one which sometimes occurs (as where overseers receive a gross sum from putative fathers of bastards, or collect money under colour of their office for an unlawful purpose, &c.)—if the excess has been received by colour of the accountant's authority, though wrongly, the accountant should be still held to account for the excess, until it is reclaimed by or returned to the party who had paid it, or until it is otherwise lawfully disposed of.

The accountant should not be alone relied on to show his receipts.

Thirdly, *What has not been received.*

This will consist of the difference between the two foregoing, where they do differ.

If the difference has arisen through the negligence of the accountant, he is bound to make it good.

In this case he will be charged with the amount as if he had collected it, and the balance against him under the head of receipts will be increased.

268 Rates.

Overseers to receive (265). Assistant overseers (265 *a.*) Collectors (265 *b.*) Guardians of Unions for rating? (265 *e.*)

a. All buildings, lands, and hereditaments purchased, hired, or taken on lease by the 'overseers,'

by the authority and for the purposes of this Act,

shall

be conveyed, demised, and assured

MATTER OF ACCOUNT.

1. *Receipts.*—Authority to Receive—*continued.*

to the 'overseers'

59 *Geo.* 3, *c.* 12, *s.* 17.

of the 'parish,'

59 *Geo.* 3, *c.* 12, *s.* 35.

and their successors in trust for the parish.

59 *Geo.* 3, *c.* 12, *s.* 17.

THE 'OVERSEERS' and their successors
shall and may
accept, take, and hold,
in the nature of a body corporate,
for and on behalf of the parish,
all such buildings, lands, and hereditaments,
and also all other buildings, lands, and hereditaments belonging to such parish.

59 *Geo.* 3, *c.* 12, *s.* 17.

Power to sue for such property or the rent of it, 59 *Geo.* 3, *c.* 12, *s.* 17. The power of the 'overseers' to hold, as a corporation, is not limited to property applicable to the use of the poor, such as the houses set up for the poor under the 43 *Eliz.*, *c.* 2, *s.* 5, the workhouses procured under the 9 *Geo.* 1, *c.* 7, *s.* 4. But it extends to all real property belonging to the parish, including property left in trust to trustees. *Doe d. Jackson*, v. *Hiley*, 10 *B. & C.*, 885.

THE PROPERTY in all and singular, the goods, chattels, furniture, provisions, clothes, linen, wearing apparel, tools, utensils, materials and things whatsoever, had, and to be had, bought, procured, or provided for the use of the poor of any 'parish' or 'parishes,'
shall
be vested in the 'overseers' of such 'parish' or 'parishes,' and their successors in office,
for the purposes of this Act.

55 *Geo.* 3, *c.* 137, *s.* 1.

Power to such 'overseers,' and their successors, to bring actions and prefer bills of indictment in respect of such property, 55 *Geo.* 3, *c.* 137, *s.* 1.

b. THE GUARDIANS of the poor of every union, formed by virtue of the Act (4 & 5 *Wm.* 4, *c.* 76), and of every 'parish' placed under the control of a board of guardians by virtue of the said Act,
shall,
from the day of their first meeting as a board, become, or be deemed to have become,
for all the purposes of this Act, a corporation by the name of "the guardians of the poor of the ——— union (or of the parish of ———), in the county of ———,
And THEY, AND THEIR SUCCESSORS,
shall
for ever continue to be such corporation for such purposes;
and *may*
accept, take, and hold,
for the benefit of such union or 'parish,'
any buildings, lands, hereditaments, goods, effects, or other property;

POOR'S RATE.

MATTER OF ACCOUNT.

1. *Receipts.*—Authority to Receive—*continued.*

and *may*
use a common seal.
5 & 6 *Wm.* 4, *c.* 69, *s.* 7.

Power to sue and prefer indictments, &c., *ib.*; to purchase, or hire, lands and buildings for workhouses, *ib. s.* 23: to provide utensils and materials to set the poor on work, *ib.*, *s.* 28.

c. ALL BOOKS for the entries of proceedings of vestry
all rates and assessments,
accounts and vouchers of the churchwardens, overseers of the poor, surveyors of the highways, and other parish officers,
and all certificates, orders of courts and of justices,
and all other parish books, documents, and writings, and public papers, except the registers of marriages, baptisms, and burials,
shall
be kept by such persons,
and deposited in such place and manner
as the inhabitants in vestry assembled may direct.
58 *Geo.* 3, *c.* 69, *s.* 6.

Penalties on persons for not keeping books, &c., safely, to be applied towards the relief of the poor, *ib. s.* 6.

Account for Receipts.

269 THE 'OVERSEERS'
shall
account
for all sums of money by them received,
or rated and sessed, and not received,
and all other things concerning their office.
43 *Eliz.*, *c.* 2, *s.* 1.
17 *Geo.* 2, *c.* 38, *s.* 1.

a. EVERY PERSON ACCOUNTABLE (266)
shall
make and render a full and distinct account
of all moneys, matters, or things
committed to his charge,
or received or held by them (him)
on behalf of the parish or union.
4 & 5 *Wm.* 4, *c.* 76, *s.* 47.

270 If any poor person be excused by any two 'justices' from the payment of any rate or cess on account of the inability of such person to pay such rate or cess,
and if the name of such poor person be struck out from such rate or cess (203),
NO PERSON or persons
shall
be charged therewith,
nor in any manner called or liable to account for the same,
or for omitting to collect or receive the same.
54 *Geo.* 3, *c.* 170, *s.* 11.

MATTER OF ACCOUNT.

2. *Payments.*

Authority to Pay.

271

See PURPOSES OF THE RATE (28), where the greater part of the authorities for the expenditure of the poor's rate are referred to.

It is much more necessary to show the *authority to pay* than to show the authority to receive; for *expense* is much more likely to be incurred unlawfully than *income* to be obtained unlawfully, and accounted for. Besides, receipts, although they may have been unduly obtained, are nevertheless still to be brought into the account (see *note* on 269), while payments made without authority are on that ground to be excluded.

It may generally be assumed that whatever is established with regard to payments of money, holds equally good with regard to all other modes of disposing of the property of 'parishes' or 'unions.'

The Fourth essential question (267, *note*), in accounting is, *What ought to be paid?*

Payments must be authorized by statute.

It is established as a principle that no payment can be lawfully made out of the poor's rate without statutory authority for the payment. No antecedent practice can operate as a legal custom, so as to give authority to a disbursement of poor's rates, which are of too recent introduction to admit of a prescription or legal custom applying to them. Nor will the reasonableness, however clear, of the expenditure, nor the concurrence of the parishioners, legalize the payment, if made without statutory authority. *R.* v. *Gwyer*, 2 *Ad. & E.*, 216.

For the *statutory authorities* to expend the poor's rate, see the PURPOSES OF THE RATE (28) and the note, and (267, *a. b.*) *infra.*

Payments must also be necessary.

Not only must the payment be of a kind authorized by some statute, but it must on the occasion be necessary. An unnecessary payment, although of a kind which in case of necessity would be lawful, is to be wholly disallowed, not as unlawful, but as '*unfounded.*' 17 *Geo.* 2, *c.* 38, *s.* 1.

Payments must also be reasonable in amount.

And although a payment would on a proper occasion be lawful, and although a proper occasion exist for some payment, still if more be paid than is necessary on the occasion, it is to be reduced; that is to say, the excess over what is necessary is to be disallowed, not as unlawful, but as '*exorbitant.*' 17 *Geo.* 2, *c.* 38, *s.* 1.

Payments must also be made within the proper time.

The time when payments ought to be made is a material element in the authority to pay. The authorities given to officers usually enable them only to discharge claims out of the rates made in the year during which those claims accrue. Officers have the power of making rates or supplying themselves with funds by anticipation. Not an appeal against the whole of a rate, nor even the quashing of the whole rate, prevents the overseers from collecting funds (226 to 230). If an officer neglect to procure the necessary supplies of funds, during his term of office, he may perhaps make himself personally liable to discharge the claims by his own neglect, *How* v. *Keech*, 1 *Bott.*, 381; but he cannot by his negligence or misconduct cast a charge on future rate-payers which they are not made liable to by statute. Nor is any creditor entitled, by postponing the enforcement of his claims, to exonerate those rate-payers who are by law liable to discharge them, and charge those whom the statutes have not made liable. *Tawney's Case*, *Vin. Abr. tit. Poor. R.* v. *Goodcheap*, 6 *T. R.*, 159. *R.* v. *Chichester*, 1 *Bott.*, 462.

But if overseers make a rate on the rate-payers of the proper year, and the rate is collected by the succeeding overseers, the latter may discharge, to the extent of the amount collected, claims accruing in the year in which the rate was made, or may to the same extent reimburse their predecessors for any payments lawfully made by the latter during their term of office. 17 *Geo.* 2, *c.* 38, *s.* 11.

In all the text-books, and in many reported cases, the 41 *Geo.* 3, *c.* 23, *s.* 9

MATTER OF ACCOUNT.

2. *Payments.*—Authority to Pay—*continued.*

is referred to as now enabling overseers to reimburse sums advanced by preceding officers during the time when no rate was made, or when an appeal affecting the whole rate was depending. But this is not so; the statute only related to cases which had occurred before its passing. The statute itself made rates recoverable notwithstanding such appeals, and thereby rendered the provision for reimbursement unnecessary for the future.

The Parochial Assessments Act, 6 & 7 *Wm.* 4, *c.* 96, however, by prohibiting the making of rates unless upon the estimate prescribed by the 1st section, and by declaring rates made otherwise than on that estimate, to be of no force, has, where rates are not made on that estimate, so far repealed the 41 *Geo.* 3, *c.* 23, *ss*, 1 & 2, by which the rate, notwithstanding its illegality, was made collectable. Accordingly, the 3rd section of the Parochial Assessments Act expressly contemplates a case in which an estimate for the purposes of the Act cannot be made until after a survey and valuation have been made. Perhaps this inability to make a rate may, during its unavoidable continuance, constitute a legal justification for borrowing money, or otherwise incurring debts.

Payments must not be in discharge of merely personal liabilities of the officers.

Statutes often impose charges on overseers and other officers, which are not payable out of the rates.

Thus, whenever a *penalty* is imposed on overseers or others for neglect of their duty, or for misconduct in their office, this is a personal punishment of the officer, not a punishment of the rate-payers, who are entitled to have the office lawfully exercised. These penalties are, for the most part, protections to the parishioners, not liabilities of the parishioners.

The same applies to *costs*, and to *damages obtained* by civil action, or by any legal proceedings whatever, against officers for neglect or misfeasance in their office. These are often compensations to the parishioners, never obligations imposed on them. The costs of the officers in defending themselves when any of these personal obligations are enforced, as in an appeal against their accounts, cannot in any case be paid out of the rates. *R.* v. *Johnson*, 5 *A. & E.*, 340. But where overseers out of office have appealed against a disallowance in their accounts, the 50 *Geo.* 3, *c.* 49, *s.* 2, expressly authorizes the Quarter Sessions to allow their costs out of the poor's rate.

The costs of litigation, however, when incurred for the protection of the body of the parishioners, as in defending a fair and lawful rate, or in the lawful support or resistance of an order of removal; or in the maintenance of any right of the 'parish' or 'union,' or the resistance of any wrong, falling within the scope of the functions of the officer, and only to be maintained or resisted by his agency, being, specifically, proceedings in protection, not of the officer, but of the parish or union, may be charged on the rate, so far as the expense incurred is necessary, and reasonable in amount. *R.* v. *Micklefield*, 1 *Bott.*, 113. And where the litigation may be long and expensive, or there may be a reasonable doubt of its necessity, or the event may prove that the proceedings were unfounded, it would still seem that the vestry can authorize litigation in this class of cases at the cost of a parish.

The rule is the same when the expense is incurred incidentally to the performance of some duty, the performance of which is cast upon the officer personally. Thus it often happens that the duties of an overseer in populous parishes are too great or too difficult for him to perform without assistance. Still, without express statutory authority, he cannot charge the cost of such assistance upon the rates. *R.* v. *Gwyer*, 2 *A. & E.*, 216.

In some cases, however, *parishes* are expressly made *liable*, by statutes, *to penalties.* And most of the charges which might fall on overseers incidentally to the performance of their personal duties may be lawfully cast upon the poor's rate by the appointment of an assistant overseer (265 *a.*) or other paid officer.

Consequences of making payments without authority.

The consequences of making payments without authority are not confined

MATTER OF ACCOUNT.

2. *Payments.*—Authority to Pay—*continued.*

to the *loss by disallowance* in the officer's accounts of the sums unlawfully expended; there are also *penal* consequences attached to unlawful expenditure of the rate. The giving relief unnecessarily is a misdemeanour. *Tawney's Case*, 1 *Bott.*, 371. Any wilful waste or misapplication of moneys, goods, or chattels belonging to 'a parish' or 'union,' is punishable for the first offence by a penalty of 5*l.*, for the second of 20*l.*, and for the third and every subsequent offence by the penalties of a misdemeanour. 4 & 5 *Wm.* 4, *c.* 76, *s.* 98.

Fifthly. *What has been paid?*

The statutes requiring the payments to be brought into account, of course only require the disclosure of such payments as are conformable with the statutory authorities for making payment. For if other payments are entered in the accounts, they must be struck out. An officer, therefore, who has made an *unlawful* or an *unfounded* or any *exorbitant* payment, is bound to bear the loss himself; and when he knows that the payment is in whole or in part unlawful, is rather bound not to enter it, or the unlawful part of it, in his accounts, than to enter it.

When what has been paid appears also to have been paid during the proper period, and is conformable with the authorities to pay—as to the nature and occasions of the payments, their amount, and the person paying—the account as to *Payments* is correct.

a. In every case in which any contribution,
by 'overseers'
or other officers of any 'parish,'
of moneys required by a board of guardians,
or persons acting as guardians
for such parish or for any union including such parish,
for the performance of their duties,
is in arrear;

Guardians are responsible for the relief of the poor under the 4 & 5 *Wm.* 4, *c.* 76. Overseers and other officers are liable to a penalty of 5*l.* if they "wilfully disobey the legal and reasonable orders of guardians in carrying "the orders of the Poor Law Commissioners, or the provisions of this Act, "into execution." There was no doubt that the order of the guardians for money necessary to them for relieving the poor, was a legal and reasonable order under the Act, but the liability to a penalty not exceeding 5*l.* was not found an efficient remedy to the guardians, more especially as the enactment by which the penalty is provided is so ambiguous in its terms that justices were often unwilling to act upon it. The present provision was therefore made.

if the chairman or acting chairman of such board
make application
(in writing) under his hand,
ANY 'TWO JUSTICES' acting within the district wherein such parish is situate
may
summon the said overseers or other officers
to show cause,
at a special session to be summoned for the purpose,
why such contribution has not been (should not be?) paid.
And after hearing the complaint preferred, under the authority of such chairman or acting chairman, on behalf of such board,
THE JUSTICES at such sessions
shall,
if they think fit

Poor's Rate.

MATTER OF ACCOUNT.

2. *Payments.*—Authority to Pay—*continued.*

by warrant under their hands and seals,
cause the amount of the contribution so in arrear, together with the costs occasioned by such arrear,
to be levied and recovered
from the said overseers or other officers,
or any of them,
in like manner as moneys assessed for the relief of the poor may be levied and recovered;
and *shall*
cause the amount of such arrear,
together with the costs as aforesaid,
when levied and recovered,
to be paid to the said board.
And NO DISTRESS made under the warrant of such justices
shall
be replevisible.

2 & 3 *Vic., c.* 84, *s.* 1.

b. EVERY CONSTABLE, headborough, or tithingman
shall,
every three months,
and within 14 days after he has gone out of his office,
deliver to the 'overseers' of the 'parish' for the time being
a just account in writing, fairly entered in a book kept for that purpose,
of all sums by him expended
on account of the parish,
in doing the business of the parish,
in all cases not hitherto provided for by the laws heretofore made, or by this Act;
and also of all sums received by him
on account of the said 'parish.'
And THE SAID OVERSEERS,
or their successors
shall,
within the next 14 days after such account has been so delivered,
lay the same before the inhabitants of the parish.
And in case the said account be approved of by the majority of such inhabitants,
THE OVEREERS
shall
pay such sum of money as appears to be due on the said account,
out of the poor's rate, made, or to be made,

18 *Geo.* 3, *c.* 19, *s.* 4.

But the approval of the inhabitants (vestry) is not a conclusive authority to the overseer to pay the sums charged by the constable; see *R.* v. *Bird*, 2 *B. & Ald.*, 526; and even when money has been paid to the constable, having been first allowed by the vestry, and afterwards passed before justices in the overseer's account, the payment may still be questioned and disallowed. *R.* v. *Justices of Warwickshire*, 2 *D & R.*, 299.

MATTER OF ACCOUNT.

2. *Payments.*—Authority to Pay—*continued.*

But in case the said account (or any part thereof) be disallowed,
THE OVERSEERS
shall
deliver back to the said constable, headborough, or tithingman
such book of accounts;
And if the said constable, headborough, or tithingman
give reasonable notice to the said overseers,
HE *may*
produce the said book
before any 'one
justice' for the 'county or place' wherein such 'parish' is situate;
And SUCH JUSTICE
is hereby authorized
to examine the same,
and to hear and determine any objection which may be made to the said account,
and to settle the sum which to him appears to be due on such account,
and to enter the same in such account,
and to sign his name thereto.
And THE OVERSEERS
are hereby authorized and required
to pay the said sum out of the money which may come into their hands,
by virtue of any rate
made, or to be made,
for the relief of the poor.

18 *Geo.* 3, *c.* 19, *s.* 4.

But unless the original expenditure by the constable be authorized by law to be made at the expense of the parish, the settlement by the justice will not justify a payment by the overseer. See the case of *R.* v. *Bird*, 2 *B.* & *Ald.* 526, above cited.

In case the overseers find that the said 'parish' is aggrieved
by any neglect, act, or thing done or omitted
by the said constable, headborough, or tithingman,
or by such justices;
or in case they have any material objection
to such account or any part thereof,
or to such determination as aforesaid,
if such overseers or any of them,
give reasonable notice
to the said justice,
constable, headborough, or tithingman,
of his or their intention to appeal to the next general or quarter sessions of the peace for the county or 'place' where such 'parish' lies,
THE OVERSEERS who have given such notice
may
appeal to such next general or quarter sessions.
And THE JUSTICES there assembled
are hereby authorized and required
to receive such appeals,

POOR'S RATE.

MATTER OF ACCOUNT.

2. *Payments.*—Authority to Pay—*continued.*

and to hear and finally determine the same.
But if it appear to the said justices that reasonable notice was not given
THEY *shall*
adjourn the said appeal to the next quarter sessions,
and then and there finally hear and determine the same.
And THE SAID JUSTICES
may
award and order for the party for whom such appeal is determined
reasonable costs,
in the same manner that they are empowered to do in the case of appeals concerning the settlement of poor persons by an Act made in the 8th & 9th *Wm.* 3, intituled, "An Act for supplying some defects in the laws for the relief of the poor of this kingdom."
18 *Geo.* 3, *c.* 19, *s.* 5.

In all corporations or liberties which have not four justices of the peace,
ANY OVERSEER
may
if he think fit,
appeal to the next general or quarter sessions of the peace
for the 'county' wherein such corporation or liberty is situate.
18 *Geo.* 3, *c.* 19, *s.* 6.

c. No OFFICER of any parish
shall,
except upon sudden and emergent occasions,
bring to the account of the 'parish'
any moneys he may have given to any poor person of the same parish
who is not registered in the collection-book (sec. 1.) as a person entitled to receive collections,
9 *Geo.* 1, *c.* 7, *s.* 2.

It is believed that this collection-book was rarely kept; but it was universally abandoned after the enactment of the 36 *Geo.* 3, *c.* 23. The provision ought to be repealed as obsolete and inapplicable, especially in unions, to the present system of relieving the poor.

on pain of forfeiting the sum of 5*l.*
to be levied by distress and sale,
by warrant of any 'two justices' of the county,
and SUCH SUM
shall
be applied to and for the use of the poor of the said parish
by direction of the said justices.
9 *Geo.* 1, *c.* 7, *s.* 2.

ALL PAYMENTS, charges, and allowances
made by any 'overseer' or 'guardian' (or other person liable to account,)
and charged upon the rates for the relief of the poor, contrary to the provisions of this Act,
or at variance with any order of the Poor Law Commissioners, made under the authority of this Act,
This declaration leaves payments which, before the Act, would have been

MATTER OF ACCOUNT.

2. *Payments.*—Authority to Pay—*continued.*

unlawful, unfounded, or unreasonable (see note on *Payments*), subject to disallowance as formerly. But it declares that even such payments as were previously lawful or customary shall be considered illegal, if contrary to the provisions of the Act (the Poor Law Amendment Act) or the orders of the Poor Law Commissioners.

shall
be
and are hereby declared
to be illegal,
any law, usage, or custom to the contrary notwithstanding.
4 & 5 *Wm.* 4, *c.* 76, *s.* 89.

Account for Payments.

7 2 THE 'OVERSEERS'
shall
make out
a just, true, and perfect account
of all moneys paid by them
and of all other things concerning their office.
17 *Geo.* 2, *c.* 38, *s.* 1.

a. EVERY PERSON ACCOUNTABLE (266 *a.*)
shall
make and render a full and distinct account of all moneys, matters, or things expended (or sold or consumed, or delivered over or otherwise disposed of) by them (him).
4 & 5 *Wm.* 4, *c.* 76, *s.* 47.

3. *Balances.*

273 THE OVERSEERS
hall
account
for all such goods, chattels, stock, and materials, as may be in their hands, or in the hands of any of the poor to work,
and for all other things concerning their office.
43 *Eliz. c.* 2, *s.* 1.
17 *Geo.* 2, *c.* 38, *s.* 1.

b. EVERY PERSON ACCOUNTABLE (266 *a.*)
shall
render a full and distinct account
of all moneys matters, and things committed to his charge,
or held by him on behalf of any 'parish' or 'union.'
4 & 5 *Wm.* 4, *c.* 76, *s.* 47.

The sixth essential question in accounting (267) is, *What is the party accounting still to be held liable for?*

See RECEIPTS (269), and PAYMENTS (271).

This sum, because its amount, added to the disbursements when they are less than the receipts, makes up a sum exactly equal to the receipts, or added to the receipts when they are less than the payments, makes up a sum equal to the payments, is said to make the opposite sides of the account balance each other. In a loose sense this sum, which produces the equality of the opposite sides of the account, or produces the balancing, is itself commonly called the balance.

POOR'S RATE

MATTER OF ACCOUNT.

3. *Balances*—continued.

By *the balance*, then, is understood the sum which remains due to the accountant, or due from him, after charging him with all proper receipts (268, 269, 270), and allowing him for all proper payments (271, 272). It is the necessary arithmetical difference of the sums of the receipts and payments, and therefore is not, like the receipts or payments themselves, a matter for legislative determination.

Consequently there are no statutory provisions or legal decisions determining the matter or amount of the balance. It is merely required that the accounts shall show this by the completeness of the statements of receipts and payments; and when it is ascertained, provisions are made for enforcing its payment by the accountant. But no express provision is made for reimbursing him when the balance is in his favour; and as he for the most part is enabled and bound to supply himself with funds prospectively, he is often liable to lose a balance which he has imprudently suffered to exist in his favour. For the cases in which, after the settlement of his accounts, he may be reimbursed any balance or part of a balance remaining in his favour, see the remarks under *Payments* (271).

THE MAKING OF ACCOUNTS.

Making Periodical, Occasional, or Final Accounts.

77 THE OVERSEERS
shall,
within four days after the end of their year,
and after other overseers nominated,
make a true and perfect account—

1, of all sums of money by them received,

2, or rated and sessed, but not received;

See note on *Receipts* (269).

3, and also of stock in their hands;

See note on *Balances* (273).

4, or in the hands of any of the poor to work;

Payments are not expressly referred to, but of course are included under the subsequent general words. The 17 *Geo.* 2, *c.* 38, *s.* 1 (272), makes express mention of payments.

5, and all other things concerning their office.

43 *Eliz.*, *c.* 2, *s.* 1.

Nothing can be more nugatory than this account. It may be assumed that it was to be in writing and entered in books, though the accounts of overseers were not expressly required to be so till the 17 *Geo.* 2, *c.* 38. The present account is not even required to be signed by the overseers. The verifications by oath under the 17 *Geo.* 2, *c.* 38, *s.* 1, and the 50 *Geo.* 3, *c.* 49, do not apply to it. The account may be in gross sums. *R.* v. *Corrocke*, *Show.* 395. The justices cannot insert, reduce, or disallow items in it.

Yet this provision remains unrepealed and obligatory, although in practice it is now never regarded.

a. THE 'OVERSEERS'
shall
also

The present audit, 14 days after the appointment of new overseers, does

THE MAKING OF ACCOUNTS.

Making Periodical, Occasional, or Final Accounts—continued.

not supersede the account under the 43 *Eliz.* (277) four days after the appointment of new overseers.

yearly, and every year,
within 14 days

This 14 days for making out the accounts is contracted to some smaller space of time by the 50 *Geo.* 3, *c.* 49 (279), which requires these accounts to be verified on oath at a special sessions to be held, not after, but *within* these 14 days.

after other overseers are appointed to succeed them,
make out
a just, true, and perfect account
in writing,
fairly entered in a book or books, to be kept for that purpose;
1, of all sums of money by them received (268, 269);
2, or rated and assessed, and not received (*ib.*);
3, and of all goods, chattels, stock, and materials in their hands (273);
4, or in the hands of any of the Poor in order to be wrought (*ib.*);
5, and of all moneys paid by such 'overseers' (271, 272);
6, and of all other things concerning their office.
And THEY
shall
sign such accounts
under their hands,

17 *Geo.* 2, *c.* 38, *s.* 1.

b. If any 'overseer'
before the expiration of his office,
remove from the place for which he was appointed,
HE *shall*,
before such removal,
make out a like account (277 *a.*),
and *shall*
sign the same under his hand.

17 *Geo.* 2, *c.* 38, *s.* 3.

c. Every PERSON ACCOUNTABLE (266 *a.*)
shall,
in addition to the annual account (277 and *a.*) required by law,
make a full and distinct account
in writing
of all moneys, matters, and things
committed to his charge,
or received or held,
or expended by him
on behalf of any parish or union.

4 & 5 *Wm.* 4, *c.* 76, *s.* 47.

POOR'S RATE.

THE RENDERING OF ACCOUNTS.

1. *Mere Delivery of Accounts.*

278 THE 'OVERSEERS'
shall
within four days after the end of their year,
and after other overseers nominated,
yield up the accounts required to be then made by them (277 *a.*),
to two justices.
43 *Eliz.*, *c.* 2, *s.* 1.

The above appears to have been only a delivery of accounts, without verification even by signature of the overseers, without oath, and which the justices had no power to refuse, whatever was the nature of the account tendered, *R.* v. *Corrocke*, *Shower*, 395, 1 *Bott.*, 310.

If any of the 'overseers' refuse to account,
ANY TWO JUSTICES
may
commit every such overseer
to the common gaol of the county,
there to remain without bail or mainprise
until he have made a true account, and satisfied and paid so much as, upon the said account, may be remaining in his hands.
43 *Eliz.*, *c.* 2, *s.* 3.

a. THE 'OVERSEERS'
shall
be accountable
to the justices at quarter sessions
for money they, or any of them, receive by sale of goods and chattels, receipt of rents and profits of lands,
of persons running away and leaving a wife, or child, or children chargeable to a parish.
5 *Geo.* 1, *c.* 8, *s.* 2.

This being provided so long before the 50 *Geo.* 3, *c.* 49, most probably contemplates only the rendering an account to the justices, as under the 43 *Eliz.*, and not an effective audit, such as is provided for by the 50 *Geo.* 3, *c.* 49, *s.* 1 (280). Nor even a verification as provided for by the 17 *Geo.* 2 (279).

2. *For Verification.*

279 THE 'OVERSEERS'
shall
verify the accounts required to be made out within 14 days after other overseers are appointed to succeed them (277 *a.*) by oath, or by the affirmation of persons called Quakers,
17 *Geo.* 2, *c.* 38, *s.* 1.

before 'two justices,'
at a special sessions to be holden for the purpose
within the said 14 days,
50 *Geo.* 3, *c.* 49, *s.* 1.

And SUCH JUSTICES
are hereby authorized

THE RENDERING OF ACCOUNTS.

2. *For Verification*—continued.

to require,

50 *Geo.* 3, *c.* 49, *s.* 1.

and to administer such oath or affirmation

17 *Geo.* 2, *c.* 38, *s.* 1.

And SUCH JUSTICES
shall
sign and attest the caption of the same, at the foot of the said account, without fee or reward.

17 *Geo.* 2, *c.* 38, *s.* 1.

a. EVERY 'OVERSEER' removing before the expiration of his office,
shall
verify his account
in like manner as is required of overseers, within 14 days after such overseers are appointed,
and subject to the like penalties.

17 *Geo.* 2, *c.* 38, *s.* 3.

b. If any person liable to account (266 *a.*)
be required by the justices, guardians, auditors, or other persons authorized in
that behalf (?)
to verify his accounts
or statements (?),
EVERY SUCH PERSON
shall
verify on oath
the truth of all such accounts and statements
from time to time
respectively,
or *shall*
subscribe a declaration to the truth thereof,
in manner
and under the penalties in this Act provided
for parties giving false evidence, or refusing to give evidence.

4 & 5 *Wm.* 4, *c.* 76, *s.* 47.

The provisions for the penalties referred to are contained in the 13th section of the Act, and are, for false evidence, the usual pains and penalties for perjury; and for refusing to give evidence, the pains and penalties of a misdemeanour.

3. *For Audit.*

There was no authoritative correction of overseers' accounts entitled to the name of an audit until the year 1810,—207 years after the enactment of the statute of Elizabeth. The yielding an account to justices under that statute, and the verification under 17 *Geo.* 2, *c.* 38, did not enable the justices to correct the accounts in any particular, or even to refuse to swear an overseer to any account he might please to tender, although the accounts stated only gross sums, or although the justices knew them to be incorrect, or false, or unlawful.—*R.* v. *Corrocke, Shower*, 95, 1 *Bott.*, 310. The only remedy against false or unlawful accounts before the year 1810, was, by appeal, after the overseer was out of office—an appeal only open practically to his successors, and not to the parish generally, and which was therefore to a great extent nugatory.

Poor's Rate.

THE RENDERING OF ACCOUNTS.

3. *For Audit*—continued.

An audit, as understood since the 50 *Geo.* 3, *c.* 49, is for the correction of the accounts, and thereby for ascertaining the proper balance without the necessity of appeal. The render (278) and the verification (279) under previous statutes was not for the correction of the accounts; and under these, if a party paid the balances appearing upon such account as he might please to tender to the justices, and which they were bound to receive, he might withhold the real balances until all the stages of an appeal had been gone through—an appeal which his successors had no interest, apart from that of the rate-payers generally, in instituting.

280 THE 'OVERSEERS'
shall
submit the account required to be made, signed (277) and verified by them within 14 days after which 'overseers' are appointed to succeed them, and to be attested by two justices at special sessions within such 14 days (279),
to 'two justices' dwelling in or near the 'parish' to which such account relates,
at a special sessions to be holden for that purpose,
within the aforesaid 14 days.
50 *Geo.* 3, *c.* 49, *s.* 1.

In case such 'overseers,' or any of them,
refuse or neglect to make and yield up such account,
17 *Geo.* 2, *c.* 38, *s.* 2.
50 *Geo.* 3, *c.* 49, *s.* 2.

or to verify the same by oath as aforesaid,
50 *Geo.* 3, *c.* 49, *s.* 2.

within the time hereinbefore limited or appointed,
ANY 'TWO JUSTICES'
may
commit him or them to the common gaol
until he or they have made and yielded such account, and verified the same.
17 *Geo.* 2, *c.* 38, *s.* 2.
50 *Geo.* 3, *c.* 49, *s.* 1.

a. If such justices think fit,
THEY *shall*
examine into the matter of every such account,
and *shall*
disallow
and strike out of every such account
all such charges and payments as they deem to be unfounded,
See *Payments* (271, 272), note.

and *shall*
reduce such as they deem to be exorbitant,
There ought also to be a power to insert such sums as ought to have been received, but have not been received, through the neglect or misconduct of the accountant (286 *b.*).

and *shall*
specify upon, or at the foot of such account,
every such charge or payment,

THE RENDERING OF ACCOUNTS.

3. *For Audit*—continued.

and its amount, so far as such justices may disallow or reduce the same,
and the cause for which the same is disallowed or reduced;
and SUCH JUSTICES
shall
signify their allowance and approbation
of every such account
under their hands;
and *shall*
sign and attest the caption of the same
at the foot of the account,
without fee or reward.

50 *Geo.* 3, *c.* 49, *s.* 1.

This allowance and approbation, however, are not final unless the attention of the justices has been called to every item. Accounts already allowed by two justices may be referred back to them again by the sessions, or (*qy.* by the sessions, or by the Court of Queen's Bench?) to any other two justices to audit afresh.—*R.* v. *Townsend*, 1 *Bott.*, 323.

The remedy is not by appeal to sessions only. But if any unlawful item be allowed, or if any item of which the details ought to be given be allowed in a gross sum, the overseers may be compelled, by mandamus, to produce their accounts to the justices again. See *R.* v. *Justices of Warwickshire*, 2 *D. & R.*, 299, where a mandamus was issued to compel overseers and guardians to take again before the justices their accounts, in which a lumping sum of 2000*l.* had been paid to two constables, and had already been once passed before justices.

b. Where any account
of any 'overseer'
or guardian

All other accountants (266) are omitted.

is presented to any 'justice'

All other auditors are omitted. Now, it is only 'overseers' who account before justices, where other auditors exist (4 & 5 *Wm. c.* 76, *s.* 47); accordingly, where there are auditors, this provision fails as to the accounts of guardians; *first*, inasmuch as guardians' accounts will not go before the justices; *secondly*, inasmuch as the auditors, before whom the guardians' accounts do go, are not mentioned in the provision.

(or other person authorized to examine, audit, allow, or disallow accounts);
if any payment,
charges,
or allowance contained therein,
be contrary to the provisions of this Act,
or to any order of the Poor Law Commissioners,
SUCH JUSTICES (or other person)
shall
disallow such payment, charge, or allowance,
as illegal and unfounded.

4 & 5 *Wm.* 4, *c.* 76, *s.* 89.

c. EVERY PERSON LIABLE TO ACCOUNT (266 *a.*)
shall,
in addition to the annual account now by law required,
once in every quarter,

Poor's Rate.

THE RENDERING OF ACCOUNTS.

3. *For Audit*—continued.

and where the orders of the Poor Law Commissioners have come into force, then, as often as the said orders may direct, but not less than once in every quarter,
render the account required by the Act to be made by him (269, 272, 273)
to the guardians,
auditors,
or such other persons as by virtue of any statute or custom, or of the said orders, may be appointed to audit, examine, allow, or disallow such accounts;
or in default of any such guardian, auditor, or other person being so appointed,
then to the justices of the peace,
at their petty sessions for the division in which such parish or union is situate.

4 & 5 *Wm.* 4, *c.* 76, *s.* 47.

And if any person so liable to account be required
by the justices, guardians, auditors, or other persons authorized in that behalf (?)
to verify his accounts (279)
or statements (?)
he *shall*
verify on oath
the truth of all such accounts and statements
from time to time
respectively,
or *shall*
subscribe a declaration to the truth thereof,
in manner
and under the penalties in this Act provided
for parties giving false evidence, or refusing to give evidence.

4 & 5 *Wm.* 4, *c.* 76, *s.* 47.

The provisions for the penalties referred to are contained in the 13th section of the Act, and are, for false evidence, the usual pains and penalties for perjury, and for refusing to give evidence, the pains and penalties of a misdemeanour.

DISPOSAL OF ACCOUNTS RENDERED.

283 The overseers
shall,
within four days after the end of their year,
and after other overseers nominated,
yield up the accounts required to be then made by them (277)
to 'two justices.'

43 *Eliz. c.* 2, *s.* 1.

This account is not to be delivered to the succeeding overseers; but only

DISPOSAL OF ACCOUNTS RENDERED—*continued.*

to the two justices. See *Anon.* 3 *Salk.*, 525, 1 *Bott.*, 311. In practice this is now altogether disregarded.

a. SUCH 'OVERSEERS'
shall,
within the 14 days after other overseers are appointed to succeed them,
deliver to such succeeding overseers
the account so made out (277 *a.*), signed (*ib.*), and verified (279).
17 *Geo.* 2, *c.* 38, *s.* 1.

This statute could not require the accounts to be delivered over as *allowed* by the justices, inasmuch as the allowance by justices was not provided for until the 50 *Geo.* 3. *c.* 49. But it may fairly be assumed that besides being made out, signed, and verified, as required by the 17 *Geo.* 2, the accounts to be delivered over to the succeeding overseers ought now also to be 'allowed,' as required by the 50 *Geo.* 3, c. 49. If however the Poor Law Commissioners were to direct the accounts to be audited under the 47th section of the 4 & 5 *Wm.* 4, *c.* 76, at some period within these 14 days, the defects of the statutes in this respect would be cured.

b. If any 'overseer,'
before the expiration of his office,
remove from the place for which he was appointed,
HE *shall*
before such removal,
deliver over,
to some other overseer of the same place,
his accounts, verified as aforesaid (279);

There is no provision in the 50 *Geo.* 3, *c.* 49, for examining, disallowing, or reducing this account, the power of justices under that Act being confined to the final account to be rendered within 14 days after the appointment of new overseers.

This account of a removing overseer might nevertheless be now subjected to an efficient audit, if the Poor Law Commissioners should order such accounts to be audited under the 47th section of the 4 & 5 *Wm.* 4, *c.* 76.

under the like penalties as are inflicted by this Act on an overseer refusing to do the same after the expiration of his office.
17 *Geo.* 2, *c.* 38, *s.* 3.

c. If any 'overseer' die
before the expiration of his office,
HIS EXECUTORS or administrators
shall,
within 40 days after his decease,
deliver over all things concerning his office

It does not appear clearly that there is any account in writing to be rendered by the executors and administrators. If such is the case, it is only to be inferred from the supposed necessity of the thing. There is no provision in this case for an audit, the 50 *Geo.* 3, *c.* 49, *s.* 1, not applying to it. But the Poor Law Commissioners might, under the 47th section of 4 & 5 *Wm.* 4, *c.* 76, direct one to be had.

to some other 'overseer' of the same place.
17 *Geo.* 2, *c.* 38, *s.* 3.

284 THE 'OVERSEERS,' or one of them,
shall
carefully preserve

POOR'S RATE.

DISPOSAL OF ACCOUNTS RENDERED—*continued.*

the book or books of the accounts required to be made and verified within 14 days after their appointment (277, 279)

The statute does not require the preservation of the accounts of overseers removing before the expiration of their office (279), nor of overseers dying (283 *c.*); although the statute subsequently makes the only provision extant for these cases.

This provision for access to past overseers' accounts is almost objectless—only serving the purpose of enabling persons to appeal against the accounts after the overseers are out of office. Without a power of inspecting the current rates, the power of appeal itself is nugatory—it is scarcely ever resorted to except in cases of personal animosity.

Practically even this power of appeal is confined to the succeeding overseers. For, notwithstanding the subsequent provision for inspection, it is held that no party is entitled to inspect, unless he can show (before inspection) some *special ground* for desiring to inspect the books. *R.* v. *Clear*, 4 *B. & C.*, 899.

in some public or other place in the 'parish.'

17 *Geo* 2, *c.* 38, *s.* 1.

285 THE 'OVERSEERS'

shall

permit

any person assessed or liable to be assessed in the parish

A mandamus will not be granted to compel overseers to allow inspection unless the party applying can show some *special* and *public* grounds for desiring to inspect the books.—*R.* v. *Clear*, *B. & C.*, 899.

to inspect the same at all seasonable times,

paying 6*d.* for such inspection.

And upon demand by any such person,

THE 'OVERSEERS'

shall

forthwith give copies of the same, or any part thereof, to such person, paying at the rate of 6*d.* for every 300 words, and so in proportion for any greater or less number.

17 *Geo.* 2, *c.* 38, *s.* 1.

Penalty for refusing such inspection (265).

APPEAL AGAINST ACCOUNTS.

1. *Against the Accounts rendered.*

286 In case any person find himself grieved

with any act done by the 'overseers' or by the 'justices,'

43 *Eliz.*, *c.* 2, *s.* 6.

This was understood to apply to the account yielded by overseers to justices (277) under the statute of Elizabeth four days after new overseers are appointed.

Accordingly in order to ground an appeal, it was necessary to show that the account had been laid before two justices.—*R.* v. *Bartlett*, *Bott.*, 325.

if such person give reasonable notice to the 'overseers,'

17 *Geo.* 2, *c.* 38, *s.* 4.

SUCH PERSON

APPEAL AGAINST ACCOUNTS.

1. *Against the Accounts rendered*—continued.

may appeal
to the 'justices' at their general quarter sessions,
43 *Eliz.*, *c.* 2, *s.* 6.

The statute being silent as to time, this appeal may be made at any time, —several years after the accounts have been allowed and confirmed.—*R.* v. *Bowin*, 1 *Bott.*, 324.

In the case, however, of an appeal against a *rate*, it was held that the 17 *Geo.* 2, *c.* 38, *s.* 4, had restrained the pre-existing liberty of appealing to any sessions, and limited the power of appeal to the next sessions.—*R.* v. *Coode*, 1 *Bott.*, 290.

a. In case any person
have any material objection
to such account as aforesaid (277 *a.*),

The account here referred to is the account to be made 14 days after the appointment of new overseers (277 *a.*). In strictness it applies therefore only to an account verified, *R.* v. *Colchester*, 1 *Bott.*, 334. But if the same account has in fact been examined and allowed under the 50 *Geo.* 3, *c.* 49, *s.* 1, then the appeal will in effect, but accidentally and not necessarily, be an appeal as well from the overseers' accounts as from an allowance by the justices at special sessions.

The verification of the accounts was not an audit, and until the 50 *Geo.* 3, *c.* 49, there was nothing approaching in character to an audit, or check, or correction of the overseers' accounts, except the appeal under the 43 *Eliz.*, *c.* 2, *s.* 6, to quarter sessions against the accounts yielded under that statute, and this appeal to quarter sessions against the accounts made under the 17 *Geo.* 2, *c.* 38. The object of both appeals was to ascertain the *quantum* of the balance.—*R.* v. *Carter*, 1 *Bott.*, 348. But the process was obviously a costly, dilatory, and uncertain one.

or in case any person find himself aggrieved
by any neglect, act, or thing done or omitted
by the 'overseers'
or 'justices,'
if such person give reasonable notice to the 'overseers,'
SUCH PERSON
may
appeal
to the next general or quarter sessions of the peace

To the next possible sessions.—*R.* v. *Justices of Dorsetshire*, 1 *Bott.*, 329.

for the 'county or place' where such 'parish' lies.
17 *Geo.* 2, *c.* 38, *s.* 4.

But in every corporation or franchise which has not four justices of the peace,
if any person so aggrieved as aforesaid think fit,
HE *may*
appeal
to the next general quarter sessions of the peace for the 'county' wherein such corporation or franchise is situate.
17 *Geo.* 2, *c.* 38, *s.* 5.

287 Unless the notice of appeal
against the account of the 'overseers' of any 'parish'

Whether under the 43 *Eliz.*, *c.* 2, *s.* 6 (286), or the 17 *Geo.* 2, *c.* 38, *s.* 4 (286 *a.*).

POOR'S RATE.

APPEAL AGAINST ACCOUNTS.

1. *Against the Accounts rendered*—continued.

This provision for notices does not apply to appeals by 'overseers' under the 50 *Geo.* 3, *c.* 49, *s.* 2, against disallowances, &c., by justices (289).

be in writing,
and unless it state and specify
the particular grounds or causes of appeal,
and unless it be signed by every person giving the same,
or by his attorney on his behalf,
41 *Geo.* 3, *c.* 23, *s.* 4.

and unless it be delivered to
the 'overseers' of the 'parish,'
or to any two of them,
Qy. when the appeal is only against the account of one of the overseers?
or be left at their places of abode,
THE JUSTICES at such sessions
shall not
receive such appeal.
41 *Geo.* 3, *c.* 23, *s.* 4.

288 And in case any person appeal (286)
to the general or quarter sessions,
43 *Eliz.*, *c.* 2, *s.* 6.
17 *Geo.* 2, *c.* 38, *s.* 4.

if it appear that reasonable notice has been given (287),
THE JUSTICES of the peace at such sessions
shall
receive such appeal,
and hear and finally determine the same,
17 *Geo.* 2, *c.* 38, *s.* 4.

taking such order therein as by them may be thought convenient,
the same to conclude and bind all parties.
43 *Eliz.*, *c.* 2, *s.* 6.

a. But if it appear to the said justices that reasonable notice was not given,
THEY *shall*
adjourn the said appeal to the next quarter sessions,
and then and there finally hear and determine the same.
17 *Geo.* 2, *c.* 38, *s.* 4.

b. Upon all appeals made to 'justices,' at 'quarter sessions,' holden for any 'county or place,' against judgments given or orders made by any justice of the peace,

This appears to apply in terms equally to appeals against rates (154 to 168) and to appeals against allowance or disallowances in accounts (289).

THE JUSTICES so assembled at quarter sessions
shall
cause any defect of form
found in such original judgments or orders
to be rectified and amended
without any cost or charge to the parties concerned.
And after such amendment made,

APPEAL AGAINST ACCOUNTS.

1. *Against the Accounts rendered*—continued.

THE SAID JUSTICES
shall
proceed in the matter as by law they should have done in case there had not been such defect or want of form in the original proceeding.
5 Geo. 2, c. 19, s. 1.

c. And upon the hearing of the appeal
THE COURT
shall not
examine or inquire into
any other cause or ground of appeal
than such as is stated or specified in the notice of appeal (287).
41 Geo. 3, c. 23, s. 4.

Nevertheless, in any case in which no notice of appeal has been given in writing,
if the overseers,
by themselves or their attorney,
in open court,
Waiver of notice cannot be recognised unless it be made in open court. *R.* v. *Sheard*, 1 *Bott.*, 336.

consent that the appeal be heard,
THE COURT
may
proceed to hear and decide upon the appeal,
although no notice thereof have been given in writing.
41 Geo. 3, c. 23, s. 5.

And in any case in which notice of appeal has been given in writing,
but any grounds of appeal are not stated
or are misstated in such notice,
if the overseers,
by themselves or their attorney,
in open court,
Waiver of notice cannot be recognised unless it be made in open court. *R.* v. *Sheard*, 1 *Bott.*, 336.

consent that such grounds of appeal be examined and inquired into,
THE COURT
may
hear and decide
upon such grounds of appeal.
41 Geo. 3, c. 23, s. 5.

d. And THE SAID JUSTICES
may
award and order
to the party for whom such appeal may be determined
reasonable costs,
in the same manner as justices are empowered to do in case of appeals concerning the settlement of poor persons, by an Act, &c. (8 & 9 *Wm.* 3, *c.* 30).
17 Geo. 2, c. 38, s. 4.

Poor's Rate.

APPEAL AGAINST ACCOUNTS.

2. *Against Disallowances by Justices.*

289 If the 'overseers' or any of them
feel themselves aggrieved
by the disallowance or reduction in their accounts of any charges or payments (280 *b.*),
and if they be desirous of appealing against any order in that respect made by justices of the peace,
and if such 'overseers' have paid or delivered over to the succeeding overseers such money, goods, chattels, and other things, as on the face of the account submitted by them may appear and be admitted to be due and owing from them, or remaining in their hands,
and if they have entered into a recognizance before a justice of the peace, with two sufficient securities to be approved of by such justice,
in not less than double the value of the sum in dispute,
to enter an appeal at the general or quarter sessions,
and to abide by such order as may be made on such appeal;
SUCH OVERSEERS or any of them
may
enter an appeal against such order
at the general or quarter sessions
to be holden next after the 10th day from the making of such order.
50 *Geo.* 3, *c.* 49, *s.* 2.

a. And in any town, place corporate, or city,
where there are not four justices of the peace,
SUCH OVERSEERS
may,
if they see fit,
appeal
to the next general or quarter sessions of the peace
for the 'county'
wherein such town, place corporate, or city is situate.
50 *Geo.* 3, *c.* 49, *s.* 4.

290 And on proof of the matters aforesaid (289),
and on production of such recognizance (*ib.*),
and on proof of the same having been duly entered into,
THE 'JUSTICES' assembled at such general or quarter sessions (*ib.*)
may
adjourn such appeal if they see occasion,
or *may*
hear the same,
and *may*
examine into, and confirm or reverse such disallowance or reduction,
in whole or in part,
as to such justices may seem just.
50 *Geo.* 3, *c.* 49, *s.* 2.

a. Upon all appeals made to 'justices' at 'quarter sessions,' holden for any 'county or place,' against judgments given or orders made by any justices of the peace,

APPEAL AGAINST ACCOUNTS.

2. *Against Disallowances by Justices*—continued.

THE JUSTICES so assembled at quarter sessions
shall
cause any defect of form
found in such original judgments or orders
to be rectified and amended
without any cost or charge to the parties concerned.
And after such amendment made,
THE SAID JUSTICES
shall
proceed in the matter as by law they should have done in case there had not been such defect or want of form in the original proceeding.

5 *Geo.* 2, *c.* 19, *s.* 1.

b. And in any such case (289, 290)
THE JUSTICES at such sessions
may,
if they think fit,
make an order
that such overseers shall have the costs by them incurred on any such appeal
defrayed out of the poor's rate
of the 'parish.'

50 *Geo.* 3, *c.* 49, *s.* 2.

RECOVERY OF BALANCES.

1. *Due from Accountants.*
b. Money and Stock.

292 THE 'OVERSEERS,'
within four days after the end of their year,

The command to pay balances within 4 days after the end of the year is not expressly repealed by the 17 *Geo.* 2, *c.* 38, *s.* 2, nor by the 50 *Geo.* 3, *c.* 49, *s.* 1, which requires balances to be paid within 24 (14+10) days of the end of the year.

It is held that the 17 *Geo.* 2, *c.* 38, requiring accounts to be made within 14 days, does not repeal the statute of Elizabeth requiring accounts to be yielded within 4 days; but that the two statutes and the 50 *Geo.* 3, *c.* 49, *s.* 1, are cumulative—and both accounts are to be made, rendered (278, 279), examined (280), and delivered to successors (283), as required by the several statutes. *Lester's Case*, 1 *Bott.*, 330. But though it is possible to yield two accounts of the same thing, one to justices, the other to succeeding officers—it is not possible to pay over twice the same balance, stock, goods, and chattels. It would therefore seem to be a reasonable construction that the 17 *Geo.* 2, *c.* 38, *s.* 1, and 50 *Geo.* 3, *c.* 49, *s.* 1, enlarge the time for payment of balances from 4 days to 24. If the several statutes were held to be cumulative in this respect also, and to leave the obligation to pay the balance in four days after the appointment of new overseers unrepealed, the course in practice would be to pay the balance admitted in the account yielded to justices under the statute of Elizabeth within four days (292); this would protect the officers against distress and committal under that statute. Then when the account had been rendered under the 17 *Geo.* 2, and the 50 *Geo.* 3 (279), if the balance remained the same as the balance before admitted, it would have been paid within the 24 days required by the latter statutes (*a.*).

POOR'S RATE.

RECOVERY OF BALANCES.

1. *Due from Accountants.—b. Money and Stock*—continued.

If the balance against them was increased, they would still have 10 days after the account rendered in which to pay the difference.

shall
pay and deliver over
such sum and sums of money as may be in their hands

Stock is not mentioned here, but may be recovered by distress under the third section of the Act.

to the 'overseers' newly nominated and appointed,
43 *Eliz.*, *c.* 2, *s.* 1.

'THE OVERSEERS,' or any of them,
may,
by warrant from 'two justices,'
levy, by distress and sale of the offender's goods,
1, the sums of money,
2, or stock
which is behind upon any account,
rendering to the parties the overplus.
43 *Eliz.*, *c.* 2, *s.* 3.

In defect of such distress,
ANY 'TWO JUSTICES'
may
commit him or them
to the common gaol of the county.
43 *Eliz.*, *c.* 2, *s.* 3.

a. THE 'OVERSEERS'
shall
pay and deliver over
1, all sums of money,
2, goods,
3, and chattels,
4, and other things in their hands
unto the succeeding overseers.
17 *Geo.* 2, *c.* 38, *s.* 1.

b. If any 'overseer,'
before the expiration of his office,
remove from the place for which he was appointed,
HE *shall*
deliver over
to some other overseer of the same place,
together with his accounts verified as aforesaid (279),
all rates, assessments, books, papers, sums of money, and other things concerning his office,
under the like penalties as are inflicted by this Act on an overseer refusing to do the same after the expiration of his office (*d.*).
17 *Geo.* 2, *c.* 38, *s.* 3.

c. If any 'overseer'
refuse or neglect to pay to the succeeding 'overseers,'
within ten days from the signing and attesting of his accounts,

RECOVERY OF BALANCES.

1. *Due from Accountants.—b. Money and Stock*—continued.

any money or arrearages
which on examination or allowance of such accounts may appear to be due and owing from him,
or remaining in his hands;
THE SUCCEEDING OVERSEERS
may,
by warrant from any two or more justices of the peace,
levy all such money or arrearages,
by distress and sale of every such offender's goods,
rendering to the parties the overplus.
50 *Geo.* 3, *c.* 49, *s.* 1.

And in default of such distress
ANY 'TWO JUSTICES'
may
commit the offender
to the common gaol of the county,
there to remain without bail or mainprise until payment of such money or arrearages.
50 *Geo.* 3, *c.* 49, *s.* 1.

d. If any 'overseer'
refuse or neglect to pay and deliver over
17 *Geo.* 2, *c.* 38, *s.* 2; 50 *Geo.* 3, *c.* 49, *s.* 1.
to the succeeding 'overseers'
within 10 days of the signing and attesting of his account (280 *a.*),
50 *Geo.* 3, *c.* 49, *s.* 1.
such sum and sums of money, goods, chattels, and other things,
17 *Geo.* 2, *c.* 38, *s.* 2; 50 *Geo.* 3, *c.* 49, *s.* 1.
which on examination of his account may appear to be remaining in his hands,
50 *Geo.* 3, *c.* 49, *s.* 1.

ANY 'TWO JUSTICES'
may
commit him to the common gaol
until he have paid and yielded up and delivered over such money, goods, chattels, and other things appearing to be in his hands as aforesaid.
43 *Eliz.*, *c.* 2, *s.* 3; 17 *Geo.* 2, *c.* 38, *s.* 2; 50 *Geo.* 3, *c.* 49, *s.* 1.

e. If any overseer die before the expiration of his office,
HIS EXECUTORS or administrators
shall,
within 40 days after his decease,
pay out of the assets left by such overseer
all sums of money remaining due which he received by virtue of his office,
before any of his other debts are paid and satisfied.
17 *Geo.* 3, *c.* 38, *s.* 3.

f. ALL BALANCES DUE

This provision is included in a clause providing for the quarterly audit (280, *d.*). But so far as it relates to the recovering of balances, it is in general terms. The persons enumerated as answerable for balances are described differently from those enumerated as liable to account (266, *a.*).

Poor's Rate.

RECOVERY OF BALANCES.

1. *Due from Accountants.—b. Money and Stock*—continued.

It would appear therefore that any balance due, whether discovered on an audit or not, as, for instance, a balance due from an overseer's executors (292 *f.*), may be recovered in the way here provided.

from any guardian,
treasurer,
overseer,
or assistant overseer,
or other person
having the (collection)
(receipt)
control
and (or) distribution
of the poor's rate,
or accountable for such balances,

The description of persons answerable for balances consists of a very imperfect enumeration, and differs considerably from the description in the former part of the clause, of the persons declared liable to account. See (266, *a.*).

may
be recovered
in the same manner as any penalties or forfeitures are recoverable under this Act.

4 & 5 *Wm.* 4, *c.* 76, *s.* 47.

Where any penalty is recoverable under the said Act, any Commissioner or Assistant Commissioner may *summon* the party before two justices. (Sec. 101).

Two justices may hear and *determine* the complaint, and proceed to recover the penalty.

The *amount* which is to be recovered as *penalty* in the present case would be *the amount of the balance* due. But as the amount of the balance (which is the equivalent of the penalty adjudged) will for the most part have been already fixed at the audit, it is a question whether the justices in such cases have any authority to consider of or determine afresh the amount of the balance, for the 47th section does not say that the balance is to be *ascertained* in the same manner as the amount of penalties and forfeitures, but it says that the balance may be *recovered* in that manner. Another reason for doubt whether the justices can inquire as to the amount of balance is, that the highest penalty that two justices can adjudge under the Act is 20*l.* (Sec. 95, 98). Whereas there is no legal limit to the amount of balances. What therefore appears to be alone referred to justices in the 47th section of the Act is the recovery of the balance as penalties and forfeitures, not the ascertaining of the balance.

The penalty and costs are to be *recovered* by warrant under the hands of two justices for the *distress and sale* of goods and chattels. And in case a penalty or forfeiture be not forthwith paid upon conviction, the justices may order the person convicted to be *detained* in safe custody until the return can be made to the warrant, or until the offender give security for his appearance. If no sufficient distress can be had, the justices are required to issue their warrant to cause the offender to be *committed* to the common gaol or house of correction for a term not exceeding three months, unless the penalties, forfeitures, and reasonable charges be sooner paid. (Sec. 99).

No PROCEEDING for the recovery of balances
from the party from whom they are due,

RECOVERY OF BALANCES.

1. *Due from Accountants.—b. Money and Stock*—continued.

shall
exonerate or discharge the liability of the surety of such person.
4 & 5 *Wm.* 4, *c.* 76, *s.* 47.

c. *Books, Papers, &c.*

293 When any person has the custody of any book for the entry of proceedings of vestry or of any rate, assessment, account, or voucher of the churchwardens, 'overseers,' surveyors of highways, or other parish officers, certificate, order, of any court or of justices or other parish-book, writing, document, or paper (268 *b.*),
if, after reasonable notice and demand,
he refuse or neglect to deliver the same
to such person or persons as may be directed by any order of vestry,
and if he be lawfully convicted thereof before 'two justices,'
HE *shall*
for every such offence
forfeit and pay such sum,
not exceeding 50*l.* nor less than 40*s.*,
as such justices may judge and determine.
And SUCH PENALTY
shall
be recovered and levied
by warrant of such justices,
in the same manner and by the same ways and means as poor's rates in arrear;
And THE SAME
shall
be paid to the overseers of the parish,
or to some of them,
and be applied for and towards the relief of the poor thereof.
58 *Geo.* 3, *c.* 69, *s.* 6.

And EVERY PERSON SO OFFENDING as aforesaid
may
be proceeded against in any of His Majesty's courts,
civilly or criminally,
as if this Act had not been made.
58 *Geo.* 3, *c.* 69, *s.* 6.

2. *Due to Accountants.*

294 If any 'overseer'
have expended any sums of money for the use of the poor,
and if such sums have been allowed to be due to him in his accounts,
and if any arrears of rates were due to him when he went out of office,
and if the succeeding overseers levy such arrears (217),
SUCH SUCCEEDING OVERSEERS
shall
reimburse him,
out of the moneys so levied,
all such sums of money.
17 *Geo.* 2, *c.* 38, *s.* 11.

RECOVERY OF BALANCES.

2. *Due to Accountants*—continued.

Before the 41 *Geo.* 3, *c.* 23, it was held that a rate could not be recovered while an appeal was pending against it. Overseers were from this cause often deficient of money to relieve the poor; and in many cases they, or the guardians under Gilbert's Act, or under local Acts, had advanced moneys for the relief of the poor.

The 41 *Geo.* 3, *c.* 23, did away, for the future, with the necessity of advancing money for the use of the poor, by enabling overseers to collect and levy a rate, notwithstanding the fact that an appeal against that rate was pending. But it was still necessary to provide a remedy for those cases in which overseers had, before the statute, made advances, and gone out of office without recovering the moneys they had advanced. This remedy was given by the 9th section of the Act, and is as follows:—"It shall be lawful "for the churchwardens and overseers of the poor of any parish, township, "vill, or place, or any of them, out of any money which they or any of "them shall collect or receive, by virtue or in pursuance of any rate or "assessment made for the relief of the poor of such parish, township, vill, or "place, to repay and reimburse the preceding churchwardens and overseers, "guardian or guardians of the poor of such parish, township, vill, or place, "all such sums of money as they or any of them have *heretofore* advanced or "expended for the relief or maintenance of the poor within or belonging to "such parish, township, vill, or place, during the time that no rate or assess-"ment for the relief of the poor thereof has been made, or during the time "that any appeal has been depending, which affected the whole of such rate "or assessment, or upon the hearing of which the same might be wholly "quashed or set aside." This provision is expressly limited in its operation to the cases which had occurred *before* its enactment. Its continued operation was rendered unnecessary by the provisions in the same statute before described. Nevertheless it is inserted in all treatises on Poor Laws and collections of Poor Law statutes as being still in operation.

OFFICERS LIABLE TO ACCOUNT.

295 If any 'overseer' be negligent in his office,

Viz.—If he neglect to make or levy rates, *s.* 1; or if he neglect to render his account, *s.* 2; or to pay over his balances, *s.* 2.

HE *shall*

forfeit for every default or negligence, 20*s.*

43 *Eliz.*, *c.* 2, *s.* 2.

a. If any 'overseer,'

or other officer of any parish

neglect or refuse to obey and perform any of the orders and directions of this Act,

Viz.—Making up and rendering accounts and balances 14 days after the expiration of their office, *s.* 1 (277, *a.*).

The same on removing out of the parish, *s.* 3 (277, *b.*).

Preserving copies of accounts, *s.* 1 (284).

Allowing inspection of accounts, *s.* 1 (285).

To make fair copies of rates, *s.* 13 (165).

To keep rate-books for public perusal, *s.* 13 (139).

To levy arrears of preceding overseers' rates (217), and reimburse their predecessors, *s.* 11 (294).

or act contrary thereto;

and if oath thereof be made, within two calendar months after the commission of the offence, before any 'two justices,'

OFFICERS LIABLE TO ACCOUNT—*continued.*

SUCH 'OVERSEER' or officer
shall
for every offence
forfeit a sum not exceeding 5*l.* nor less than 20*s.*,
for the use of the poor of such 'parish,'
to be levied by warrant of such 'justices,'
by distress and sale of the offender's goods.
17 *Geo.* 2, *c.* 38, *s.* 14.

And SUCH SUM
shall
be paid to some churchwarden or overseer of the parish
for the use of the poor thereof.
17 *Geo.* 2, *c.* 38, *s.* 14.

OFFICERS FOR AUDITING ACCOUNTS.

297 If the 'parish' be in a county,
THE 'OVERSEERS'
shall
yield up their account to be made within four days after the end of their year (267)
to 'two justices'
whereof one to be of the *quorum*,
dwelling in or near the division where the 'parish' doth lie;
43 *Eliz.*, *c.* 2, *s.* 1.
13 & 14 *Car.* 2, *c.* 12, *s.* 17.

Or if the 'parish' be wholly within an exclusive jurisdiction,
then to 'two justices' of that jurisdiction;
43 *Eliz.*, *c.* 2, *s.* 8.

Or if a parish lie within two places of concurrent jurisdiction,
then to 'two justices' of either jurisdiction, or to one justice of the one jurisdiction and to one of the other;
43 *Eliz.*, *c.* 2, *s.* 8.

Or if a parish lie within two places of exclusive jurisdiction,
then to 'two justices' at least of each such jurisdiction.
43 *Eliz.*, *c.* 2, *s.* 9.

2 *Lord Raym.*, 789; *R.* v. *Gordon*, 1 *B. & A.*, 524; *R.* v. *Folly*, 1 *Bott.*, 86; *R.* v. *Kynaston*, 2 *East*, 118.

a. THE OVERSEERS
shall
verify on oath
their account to be made within 14 days after other overseers are appointed (277 *a.*)
before 'one justice,'
17 *Geo.* 2, *c.* 38, *s.* 1.

and also, if required,
shall
verify the same on oath

POOR'S RATE.

OFFICERS FOR AUDITING ACCOUNTS—*continued.*

before 'two justices'
50 *Geo.* 3, *c.* 49, *s.* 1.
as aforesaid,
50 *Geo.* 3, *c.* 49, *ss.* 1, 8.
at a special sessions to be holden for the purpose within such 14 days.
50 *Geo.* 3, *c.* 49, *s.* 1.

b. THE OVERSEERS
shall
submit their account to be made within 14 days after other overseers are appointed (277 *a.*),
to be examined and allowed, to 'two justices,'
50 *Geo.* 3, *c.* 49, *s.* 1.
as aforesaid,
50 *Geo.* 3, *c.* 49, *ss.* 1 & 8.
at a special sessions holden for the purpose within such 14 days.
50 *Geo.* 3, *c.* 49, *s.* 1.

c. Where a select vestry has been appointed under the 59*th Geo.* 3, *c.* 12,
SUCH SELECT VESTRY
shall
inquire into
This power of the select vestry does not certainly involve the power of disallowing or reducing items *ex post facto*. But it is at least as great as the power of justices before the 50 *Geo.* 3, *c.* 49, *s.* 1.
and superintend
This power of superintendence is apparently such a power of prospective and contemporaneous control of the collection and expenditure as brings the select vestry within the definition of persons liable to account (266, *a.*).
the collection
and administration
of all money to be raised by the poor's rate,
and of all other funds and money raised,
or applied by the parish,
to the relief of the poor.
59 *Geo.* 3, *c.* 12, *s.* 1.
It is doubtful whether these words give to a select vestry a power to direct the expenditure of money, or only a mere power of inquiry and a superintendence of expenditure which is still to be made by other persons.

d. ALL PERSONS LIABLE TO ACCOUNT (266, *a.*)
shall
render the accounts required of them (269, 272, *a.*).
And if required,
shall
verify the same
before the guardians,
auditors,
Viz.—Under the 1 & 2 *Wm.* 4, *c.* 60, *s.* 33, *et seq.*
or such other persons as by virtue of any statute or custom,
As guardians under Gilbert's Act; select vestry under the 59 *Geo.* 3, *c.* 12, *s.* 1; auditors under the 1 & 2 *Wm.* 4, *c.* 60.

OFFICERS FOR AUDITING ACCOUNTS—*continued.*

or of the 'Poor Law Commissioners'' rules,
For appointment of paid auditors (297, *e.*).
may be appointed to examine, audit, allow, or disallow accounts.
Or in default of any such guardian, auditor, or other person being appointed,
then before the justices
at their petty sessions
for the division in which the 'parish' or 'union' is situate.
4 & 5 *Wm.* 4, *c.* 76, *s.* 47.

e. THE 'POOR LAW COMMISSIONERS'
may,
as and when they see fit,
by order under their hands and seal,
direct the 'overseers' or guardians
of any 'parish'
or 'union,'
or of so many parishes or unions as the said Commissioners may, in their order, specify and declare to be united, for the purpose only of appointing and paying officers,
to appoint paid officers,
with such qualifications as the said Commissioners may think necessary,
for the examining and auditing, allowing or disallowing of accounts,
in such parish or union, or united parishes.
4 & 5 *Wm.* 4, *c.* 76, *s.* 46.

And THE SAID COMMISSIONERS
may
define, and specify, and direct
the execution of the duties of such officers,
the places or limits within which the same shall be performed,
the mode of appointment and continuance in office,
or dismissal of such officers,
Other powers are given to the Commissioners for the dismissal of paid officers, and certain consequences are attached to such dismissal by *sec.* 48.
the amount and nature of the security to be given by such officers, if the Commissioners think that they ought to give security,
and *may*,
if they see occasion,
regulate the amount of salaries to be paid to such officers,
and the time and mode of payment thereof;
and the proportion in which the respective parishes or unions shall contribute to such payment;
And SUCH SALARIES
shall
be chargeable upon, and payable out of the poor's rate of such parish or union, or respective parishes (or unions),
in the manner and proportion fixed by the said Commissioners:
and *shall*
be recoverable against the overseers or guardians of such parish or union, or parishes, or unions,
by all such ways and means as the salaries of assistant overseers,
The 59 *Geo.* 3, *c.* 12, *s.* 7, provides, as the present clause does, that the

Poor's Rate.

OFFICERS FOR AUDITING ACCOUNTS—*continued.*

salary should be paid out of the rate raised for the relief of the poor, and also provides, what is inapplicable to the present case, that the salaries shall be paid at such times and in such manner as shall have been agreed upon between the inhabitants in vestry and the person appointed assistant overseer; but no means for the recovery of the salary of the assistant overseer are pointed out by the 59 *Geo.* 3, *c.* 12, or by any other statute; and he appears to be left to his remedy at common law under the agreement—a remedy involved in considerable practical difficulties on change of overseer, or when the period of service of the assistant overseer for which he seeks payment extends through the period of operation of several rates of different years.

or other paid officers
of any 'parish' or 'union,'
are recoverable by law;

There is no provision in any statute of general operation for the recovery of salaries.

And ALL SUCH PAYMENTS
shall
be valid,
and *shall*
be allowed in the accounts of the overseers or guardians paying the same.
4 & 5 *Wm.* 4, *c*, 76, *s.* 46.

GENERAL PROVISIONS RELATING BOTH TO RATES AND TO ACCOUNTS.

1. INQUISITORY POWERS.

RETURNS, REPORTS, RECORDS, &c.

298 THE POOR LAW COMMISSIONERS
may
inquire into all questions or matters connected with or relating to the administration of the laws for the relief of the poor;
require answers or returns,
or the attendance of any person before them upon any such question or matter;
administer oaths;
examine all such persons upon oath;
require and enforce the production upon oath of books, contracts, and agreements, accounts and writings, or copies thereof respectively, in anywise relating to any such question or matter.
4 & 5 *Wm.* 4, *c.* 76, *s.* 2.

---

2. ADMINISTRATIVE POWERS.

CONTROL OF RATES, ACCOUNTS, AUDITS, &c.

300 THE POOR LAW COMMISSIONERS
may
make and issue rules, orders, and regulations
for the guidance and control
of all guardians, vestries, and parish officers,
so far as relates to the management or relief of the poor;
or to any expenditure for the relief of the poor;
and the keeping, examining, auditing, and allowing of accounts,
and *may*
at their discretion
from time to time
suspend, alter, or rescind any such rules, orders, or regulations.
4 & 5 *Wm.* 4, *c.* 76, *s.* 15.

The description of the modes in which the Commissioners' orders are to be executed, issued, notified, published, and enforced or questioned, is to be found in the 4 & 5 *Wm.* 4, *c.* 76, sections 3, 16, 17, 18, 20, 42, 98, 99, 100, 101, 105, 107, and 108.

---

3. LITIGIOUS REMEDIES, &c.

PROTECTIONS.
Certiorari.

304 NO CERTIORARI
shall
be granted

POOR'S RATE.

3. LITIGIOUS REMEDIES, &c.

PROTECTIONS—*Certiorari*—continued.

to remove
any order or proceeding
of any general or quarter sessions, made or had under this Act,

Such orders or proceedings must relate to

1. Appeals *by* '*overseers*' against disallowance or reduction in *their* accounts, *sec.* 2 (289). But the provision does not extend to appeals by other persons against the 'overseers'' accounts (286, 287, 288), the Act making no provision for such appeal beyond a mere recognition of them in *sec.* 3. See *R.* v. *Bird*, 1 *Bott.*, 478.

2. Orders for costs to be paid to 'overseers' in cases of appeal by them against disallowance or reduction in their accounts, *sec.* 2 (290 *b*). The provision extends equally to justices of towns, places corporate, and cities, as well as to justices of counties, *sec.* 4 (289 *a*.).

or of any 'justices,' made under this Act,

These orders or proceedings are :—

1. Orders at special sessions,
disallowing
reducing
and allowing
of 'overseers'' accounts, *sec.* 1 (280).
2. Warrants of any 'two justices' committing 'overseers' not accounting to gaol, *sec.* 1 (280).
3. Warrants of any 'two justices' to levy arrears by distress and sale of overseers' goods, *sec.* 1. (292, *c.*).
4. In default of distress, warrants of any 'two justices' to commit 'overseers' to gaol, *sec.* 1. (292, *c.*).

into any superior court of record;
But ALL ORDERS and proceedings of such sessions,
and all orders and proceedings of such justices,
shall
(subject to the appeal before provided) be final and conclusive to all intents and purposes.

50 *Geo.* 3, *c.* 49, *s.* 5.

305 Where any person sues to have a writ of certiorari issued forth
to remove any conviction, judgment, order, or other proceedings
before any justice or justices of any 'county' or 'place,'
or the 'quarter sessions' thereof,
unless such certiorari be moved or applied for within six calendar months next after such conviction, judgment, order, or other proceeding;
and unless it be duly proved on oath that the party suing forth the same hath given six days' notice thereof in writing

The notice must be given six days *before the making of the motion* to show cause why a certiorari should not be granted. *R.* v. *Justices of Glamorganshire*, 5 *T. R.*, 279.

to the justice or the justices, or to two of them, if so many there be, by and before whom such conviction, judgment, order, or other proceeding was had or made.

13 *Geo.* 2, *c.* 18, *s.* 5.

and unless the party prosecuting and (suing forth) such certiorari
before the allowance thereof

3. LITIGIOUS REMEDIES, &c.

PROTECTIONS—*Certiorari*—continued.

This apparently may be after motion, certainly may be at any time before motion.

enter into a recognizance with sufficient sureties

This provision for entering into a recognizance is given in terms which renders it doubtful whether it applies to exactly the same class of cases as the limitation to six months, and the condition of six days' notice, enacted by the 13 *Geo.* 2, *c.* 18.

The present provision applies to "any judgment or order of justices," the provisions of the 13 *Geo.* 2, *c.* 18, to "any conviction, judgment, order, or other proceedings."

before a justice of the peace of the county or place, where any such (conviction) judgment or order (or other proceeding) may have been given or made,

or before the justices at their quarter sessions,

or before one of His Majesty's justices of the Court of King's Bench,

in the sum of 50*l.*,

with condition to prosecute the same at his own cost and charges without any wilful or affected delay, and (if such judgment or order be confirmed) to pay to the party in whose favour, or for whose benefit such (conviction) judgment or order (or other proceeding) was given or made, within one month after the same may be confirmed, his full costs and charges, to be taxed according to the course of the court, where the same may be confirmed.

SUCH WRIT of certiorari

shall not

be granted, issued forth, or allowed.

5 *Geo.* 2, *c.* 19, *s.* 2.

a. EVERY RECOGNIZANCE

taken as aforesaid

shall

be certified into the Court of King's Bench at Westminster,

and there filed with the certiorari, and the (conviction) order or judgment (or other proceeding) removed.

13 *Geo.* 2, *c.* 18, *s.* 5.

b. And SUCH JUSTICE or justices,

or the parties therein concerned,

may,

if he or they think fit,

show cause against the issuing or granting of such certiorari.

13 *Geo.* 2, *c.* 18, *s.* 5.

c. And if the said order or judgment be confirmed by the said court,

and if the person entitled to costs demand such costs from the person who ought to pay the same,

and if the costs so demanded be not paid within 10 days after such demand;

and if the person entitled to such costs make oath of such demand and refusal of payment,

HE *shall be entitled*

to have an attachment granted by the said court

against the person so refusing payment

POOR'S RATE.

3. LITIGIOUS REMEDIES, &c.

PROTECTIONS—*Certiorari*—continued.

for the contempt.

13 *Geo.* 2, *c.* 18, *s.* 5.

d. And until the costs be paid, and the order so confirmed be complied with and obeyed,

THE RECOGNIZANCE so given upon the allowance of such certiorari *shall not*

be discharged.

5 *Geo.* 2, *c.* 19, *s.* 3.

e. And if the party prosecuting such certiorari
do not enter into such recognizance,
or do not perform the conditions thereof,

THE JUSTICES *may*

proceed and make such further order or orders for the benefit of the party for whom judgment may be given

as if no certiorari had been granted.

5 *Geo.* 2, *c.* 19, *s.* 2.

JURISDICTION.

Justices of the Peace.

1. *Disabilities Removed.*—2. *Jurisdiction Given.*

1. *Disabilities Removed.*

306 EVERY justice of the peace
for any county, riding, division,
city,
liberty,
franchise,
borough or town corporate,
within his respective jurisdiction,
may

make, do and execute all and every act or acts, matter or matters, thing or things, appertaining to his office as justice of the peace,

so far as the same relates to the laws concerning parochial taxes, levies, or rates,

notwithstanding such justice is rated to, or chargeable with the taxes, levies, or rates within any such parish, township or place, affected by any such act or acts of such justice as aforesaid.

16 *Geo.* 2, *c.* 18, *s.* 1.

But NO JUSTICE of any county, or riding or division of a county at large, *shall*

have authority to act

in the determination of any appeal

to the quarter sessions for such county or riding or division,

Justices of cities, liberties, franchises, boroughs and towns corporate, not respectively being counties of themselves, may however act in the determination of such appeals, being rendered competent by *s.* 1. and not referred to in the present disabling clause.

from any order, matter, or thing

JURISDICTION—*Justices of the Peace*—1. *Disabilities Removed*—continued.

relating to any parish, township, or place where such justice is charged, taxed, or chargeable as aforesaid.
16 *Geo.* 2, *c.* 18, *s.* 3.

2. *Jurisdiction Given.*

307 ANY JUSTICE acting for two or more adjoining counties, ('Counties'?) and personally resident in one of such counties,
may,
when so personally resident,
act as a justice
in either of such counties
in any matter concerning any or either of such counties.
28 *Geo.* 3, *c.* 49, *s.* 1.

a. The WARRANTS, orders and directions
to be granted or given by any such justice
shall
be directed and given
in the first instance
to the constable or other officer of the county
to which the same relate.
28 *Geo.* 3, *c.* 49, *s.* 1.

b. CONSTABLES
may
take offenders
before justices acting for the county,
and resident in such adjacent county.
28 *Geo.* 3, *c.* 49, *s.* 2.

OFFENDERS
may
be conveyed to gaol
through adjoining counties.
28 *Geo.* 3, *c.* 49, *s.* 3.

308 ANY JUSTICE of the peace acting for any county at large
may
act as such
at any place within any city, town, or other precinct, being a county of itself, and situate within, surrounded by, or adjoining to such county at large.
28 *Geo.* 3, *c.* 49, *s.* 4.
9 *Geo.* 1, *c.* 7, *s.* 3.

But SUCH JUSTICE,
not being a justice for such city, town, or precinct,
shall not
act or intermeddle in any matter or things
arising within such city, town, or precinct
in any manner whatsoever.
28 *Geo.* 3, *c.* 49, *s.* 4.
9 *Geo.* 1, *c.* 7, *s.* 3.

Poor's Rate.

3. LITIGIOUS REMEDIES, &c.

Jurisdiction—*Justices of the Peace*—2. *Jurisdiction Given*—continued.

309 Where two or more justices,
At general or quarter sessions?
deputy lieutenants,
or others
are authorized to hear and determine any complaint
one justice, deputy lieutenant, or such other person
may
receive the original information or complaint,
and issue the summons or warrant requiring the parties to appear
before two or more justices, deputy lieutenants, or others, as the case may require;

a. And after examination on oath, and adjudication thereon by two such justices, deputy lieutenants or other persons,
all and every the subsequent proceedings to enforce obedience thereto, or otherwise,
whether respecting the penalty, fine, imprisonment, costs, or other matter or thing now enacted, or hereafter to be enacted,
may
be enforced by any one justice, deputy lieutenant, (or such other person) of the 'county' or 'place,'
in such and the like manner as if done by the same two justices, deputy lieutenants, or other persons who heard and adjudged the complaint.
3 *Geo.* 4, *c.* 23, *s.* 2.

b. The form of conviction in such cases
shall
be according to the fact.
3 *Geo.* 4, *c.* 23, *s.* 2.

Evidence.
Witnesses' Disabilities Removed.

311 In all actions brought in their Majesty's courts of record at Westminster, or at the assizes,
for the recovery of any sum or sums of money collected for the poor,
or of other public moneys relating to churches and (or) parishes
and mis-spent or taken by the churchwardens or overseers thereof;
the evidence of any of the parishioners,
other than of such as receive alms, or any pension or gift out of any such collection of public moneys,
shall
be taken and admitted
in all such cases in the courts aforesaid.
3 *Wm. and Mary, c.* 11, *s.* 12.

This removal of disabilities is not extensive enough. It applies only to the Courts of Record at Westminster, and to the assizes, and to only one kind of proceeding, now wholly or nearly out of use, namely, to *actions* for recovery of balances, and this only in the case of churchwardens and over seers. Whereas it is chiefly in other courts, as before justices, in and out of sessions, and in proceedings, not of the class of actions, that Parishioners

3. LITIGIOUS REMEDIES, &c.

EVIDENCE—*Witnesses' Disabilities Removed*—continued.

are required as witnesses, and there are many other officers having to do with the public moneys of parishes, besides churchwardens and overseers.

a. If any person rated
or liable to be rated
as the inhabitant of any 'parish'
to the relief of the poor
or towards the maintenance of the church, chapel, or highways
or for any other purpose whatever,
be called as a witness
on any trial,
in any court whatever,
SUCH PERSON
shall not
be disabled or prevented from giving evidence
by reason only of his being so rated or so liable to be rated,
3 & 4 *Vic. c.* 26, *s.* 1.

This provision may probably be construed to render all rate-payers and all persons liable to be rated, whatever be the character in which they are liable, whether as inhabitants (74), or occupiers (77), or as parson or vicar (75), competent to be witnesses: but the terms of the provision apply only to a very small class of rate-payers, namely, those who are rated *as inhabitants*. Now since the passing of the 3 & 4 *Vic.*, *c.* 89, & 5 *Vic.*, *c.* 7, *s* 1, by which *inhabitants*, as such, are exempted from poor's rate, the terms of the above provision in strictness apply to no existent class of rate-payers for the relief of the poor.

The provision does not extend to extra-parochial places not maintaining their poor, although it is obvious that the reason for the provision applies to all places whatever in which any local rate may be made.

b. NO INHABITANT or person rated, or liable to be rated,
to any rates or cesses,
of any district, 'parish,' or hamlet,
or executing or holding any office thereof or therein,
shall,
before any court, or person or persons whatsoever,
be deemed and (or) taken to be,
by reason thereof,
an incompetent witness for or against such district, parish, or hamlet,
in any matter relating to such rates or cesses;
or to the boundary between such district, parish, or hamlet, and any adjoining district, parish, or hamlet;
or to any order of removal to, or from, such district, parish, or hamlet;
or the settlement of any pauper in such district, parish, or hamlet;
or touching any bastards chargeable to such district, parish, or hamlet;
or the recovery of any sum or sums for the charges and maintenance of such bastards;
or to the election or appointment of any officer of any such district, parish, or hamlet;
or to the allowance of the accounts of any such officer.
44 *Geo.* 3, *c.* 170, *s.* 9.

c. If any churchwarden, overseer, or other officer
in or for any 'parish' or union,

POOR'S RATE.

3. LITIGIOUS REMEDIES, &c.

EVIDENCE—*Witnesses' Disabilities Removed*—continued.

This does not extend to extra-parochial places not maintaining their poor, although it is obvious that the reason for the provision applies to all places whatever in which any local rate may be made; the same deficiency exists in the preceding clause. See 311 (*a.*).

or any person rated or liable to be rated as aforesaid (*a.*),
be only a nominal party to any trial, appeal, or other proceeding,
and be only liable to contribute costs in respect thereof, in common with other rate-payers of such parish or union,

HE
shall not
be disabled or prevented from giving evidence on such trial, appeal or other proceeding
by reason only of his being a party thereto,
or of his being liable to costs in respect thereof, as aforesaid.
3 & 4 *Vic.*, *c.* 26, *s.* 2.

EXECUTION.
By Distress and Sale.

313 In all cases where power is given
by any Act of Parliament now in force or hereafter to be made,
to any justice or justices,
to issue a warrant of distress
for the levying of any penalty inflicted,
or of any sum of money directed to be paid
by or in consequence of such Act of Parliament,
27 *Geo.* 2, *c.* 20, *s.* 1.

The word *such* involves an inconvenient limitation, inasmuch as many penalties are inflicted, and sums of money required to be paid by Acts of Parliament which do not themselves contain the power of distress. This Act, requiring that the payment shall be directed by the same Act which authorizes the distress, does not extend to such cases, nor to the cases where money is leviable by distress at common law, as for rent, nor to cases where power of distress is given by deed.

except in the case of distresses to be made for the payment of church rates and tithes by the people called Quakers,
EVERY JUSTICE granting such warrant
may
order and direct in such warrant
that the goods and chattels to be distrained
be sold and disposed of,

With the limitations referred to above, this Act superadds to the power of distress—which before operated merely as a *pledge* for payment—the power of sale, by which the distress is turned into an *execution*.

within a certain time to be limited in the warrant,
not being less than four days, nor more than eight days,
unless the penalty or sum of money for which the distress is to be made, together with the reasonable charges for taking and keeping the distress, be sooner paid.
27 *Geo.* 2, *c.* 20, *s.* 1.

3. LITIGIOUS REMEDIES, &c.

EXECUTION—*By Distress and Sale*—continued.

a. If the officer executing such warrant be required by the person whose goods and chattels are distrained
to show such warrant
or to suffer a copy thereof to be taken,
SUCH OFFICER
shall
show the same
to such person,
and *shall*
suffer such copy to be taken.
27 *Geo.* 2, *c.* 20, *s.* 2.

b. And in all such cases
THE OFFICER making the distress
shall
deduct the reasonable charges of taking, keeping, and selling the distress out of the money arising by the sale.
27 *Geo.* 2, *c.* 20, *s.* 2.

c. And if there be any overplus after the penalty or sum of money, and such charges are fully satisfied and paid;
and if the owner of the goods and chattels distrained on demand the same,
SUCH OFFICER
shall
return such overplus.
27 *Geo.* 2, *c.* 20, *s.* 2.

316 In all cases where any penalty, forfeiture, fine, or other money has been directed, by warrant of any justice or justices, to be levied by distress and sale of the goods of any person,
if sufficient distress cannot be found within the limits of the jurisdiction of the justice granting the warrant of distress;
and if oath thereof be tendered before any justice of any other 'county or place;'
SUCH JUSTICE of such 'county or place'
shall
administer such oath,
and certify the same by indorsement on the (original) warrant.
33 *Geo.* 3, *c.* 55, *s.* 3.

a. And if such oath be so certified,
THE PERSON to whom the warrant of distress was originally directed
may
raise and levy,
by virtue of such warrant and indorsement,
such penalty, forfeiture, fine, or other money,
or so much thereof as may not have been before paid or levied by distress and sale of the goods and chattels of the person liable to pay
in such other 'county or place.'
33 *Geo.* 3, *c.* 55, *s.* 3.

b. And THE MONEY arising by such distress and sale
shall

POOR'S RATE.

3. LITIGIOUS REMEDIES, &c.

EXECUTION—*By Distress and Sale*—continued.

be applied and disposed of for such purposes and in like manner
as if sufficient goods and chattels of such persons had been found within the jurisdiction of the magistrate originally granting the warrant.
33 *Geo.* 3, *c.* 55, *s.* 3.

c. And if no distress can be found,
THE OFFENDER (person liable to pay?)
shall
be forthwith proceeded against according to law.
33 *Geo.* 3, *c.* 55, *s.* 3.

d. And NO JUSTICE who has indorsed such certificate on any such warrant of distress, which may not have been granted within his jurisdiction,
or has authorized the execution of any such warrant,
shall
be answerable or accountable
for any irregularity
which may have been committed in or about the obtaining or granting of such warrant.
33 *Geo.* 3, *c.* 55, *s.* 3.

317 EVERY BROKER or other person making or levying any distress whatsoever,
shall
give a copy of his charges, and of all the costs and charges whatsoever of the distress
signed by him,
to the person or persons on whose goods and chattels the distress is levied.
57 *Geo.* 3, *c.* 39, *s.* 6.

Printed by WILLIAM CLOWES and SONS, Stamford Street,
For Her Majesty's Stationery Office.

...unt of Local Taxes (Eng.d & Wales)

Poor's rates £6,351,828 (including £700000 County rates)

Church rates — 600,000 — (round numbers)

Highway rates — 1,312,812 [Parl: Pa: 1839-56

Turnpike Tolls } 1,577,764 41-34

Eng.d & Wales } 1,577,764 - 42

£9,842,404 42-13

- 23

Int.r statement in work on local taxes, pub.d under

P..

PLEASE DO NOT REMOVE
CARDS OR SLIPS FROM THIS POCKET

UNIVERSITY OF TORONTO LIBRARY

71,838

7,241

9,079

HJ 9425 A5A42 Gt. Brit. Poor Law Commissioners
Report on local taxation